

### Questions referred

1. Must Article 1(2)(b) of the Brussels Ia Regulation (Regulation No 1215/2012 <sup>(1)</sup>) in conjunction with Article 3(1) of the Insolvency Regulation (Regulation No 1346/2000 <sup>(2)</sup>) be interpreted as meaning that the term 'bankruptcy, proceedings relating to the winding-up of insolvent companies or other legal persons, judicial arrangements, compositions and analogous proceedings' in Article 1(2)(b) of the Brussels Ia Regulation includes also proceedings in which the claim is described in the summons as a pure trade receivable, without any mention of the respondent's previously declared bankruptcy, whereas the actual legal basis of that claim is the specific derogating provisions of Netherlands bankruptcy law (Article 25(2) of the Wet van 30 september 1893, op het faillissement en de surséance van betaling (Law of 30 September 1893 on bankruptcy and suspension of payment; 'NFW')) and whereby:

- it must be determined whether such a claim must be considered a verifiable claim (Article 26 NFW in conjunction with Article 110 thereof) or an unverifiable claim (Article 25(2) NFW),
- it appears that the question whether both claims can be brought simultaneously and whether one claim does not appear to exclude the other, taking into account the specific legal consequences of each of those claims (inter alia, in terms of the possibilities of calling for a bank guarantee deferred after the bankruptcy), may be determined in accordance with the rules specific to Netherlands bankruptcy law?

And further

2. Can the provisions of Article 25(2) [NFW] be regarded as compatible with Article 3(1) of the Insolvency Regulation, in so far as that legislative provision would allow such a claim (Article 25(2) NFW) to be brought before the court of another Member State instead of before the insolvency court of the Member State in which the bankruptcy was declared?

<sup>(1)</sup> Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2012 L 351, p. 1).

<sup>(2)</sup> Council Regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings (OJ 2000 L 160, p. 1).

---

**Request for a preliminary ruling from the Administrativen sad Varna (Bulgaria) lodged on 14 June 2022 — Trade Express-L OOD v Zamestnik-predsedatel na Darzhavna agentsia 'Darzhaven rezerv i voennovremenni zapasi'**

(Case C-395/22)

(2022/C 359/38)

*Language of the case: Bulgarian*

### Referring court

Administrativen sad Varna

### Parties to the main proceedings

*Applicant:* Trade Express-L OOD

*Defendant:* Zamestnik-predsedatel na Darzhavna agentsia 'Darzhaven rezerv i voennovremenni zapasi'

### Questions referred

1. Having regard to the objective of Council Directive 2009/119/EC <sup>(1)</sup> of 14 September 2009 imposing an obligation on Member States to maintain minimum stocks of crude oil and/or petroleum products, and to Article 2(d) of Regulation (EC) No 1099/2008 <sup>(2)</sup> of the European Parliament and of the Council of 22 October 2008 on energy statistics, and in the light of the principle of proportionality under Article 52(1) of the Charter of Fundamental Rights of the European

Union, in conjunction with Article 17 thereof, must recital 33 and Article 1, Article 3, Article 8 and Article 2(i) and (j) of that directive be interpreted as precluding national legislation, such as that at issue in the main proceedings, under which persons who have made intra-Community receipts of lubricating oils as defined in point 3.4.20 of Annex A to Regulation (EC) No 1099/2008 (or importers of such lubricating oils) can be obliged to establish emergency stocks?

2. Having regard to the objective of Council Directive 2009/119/EC of 14 September 2009 imposing an obligation on Member States to maintain minimum stocks of crude oil and/or petroleum products, and in the light of the principle of proportionality under Article 52(1) of the Charter of Fundamental Rights of the European Union, in conjunction with Article 17 thereof, must recital 33 and Article 1, Article 3, Article 8 and Article 2(i) and (j) of that directive be interpreted as precluding national legislation, such as that at issue in the main proceedings, under which the types of products in respect of which emergency stocks must be established and maintained are limited to some of the types of products in Article 2(i) of that directive, in conjunction with Chapter 3.4 of Annex A to Regulation (EC) No 1099/2008?
3. Having regard to the objective of Council Directive 2009/119/EC of 14 September 2009 imposing an obligation on Member States to maintain minimum stocks of crude oil and/or petroleum products, and in the light of the principle of proportionality under Article 52(1) of the Charter of Fundamental Rights of the European Union, in conjunction with Article 17 thereof, must recital 33 and Article 1, Article 3, Article 8 and Article 2(i) and (j) of that directive be interpreted as precluding national legislation, such as that at issue in the main proceedings, under which the making by a person of intra-Community receipts or imports of one of the types of products referred to in Article 2(i) of that directive, in conjunction with Chapter 3.4 of Annex A to Regulation (EC) No 1099/2008, entails an obligation on the part of that person to establish and maintain emergency stocks of another, different type of product?
4. Having regard to the objective of Council Directive 2009/119/EC of 14 September 2009 imposing an obligation on Member States to maintain minimum stocks of crude oil and/or petroleum products, and in the light of the principle of proportionality under Article 52(1) of the Charter of Fundamental Rights of the European Union, in conjunction with Article 17 thereof, must recital 33 and Article 1, Article 3, Article 8 and Article 2(i) and (j) of that directive be interpreted as precluding national legislation, such as that at issue in the main proceedings, under which a person is obliged to establish and maintain stocks of a product which he or she does not use in the course of his or her economic activity and which is not connected with that activity, whereby that obligation also entails a significant financial burden (leading, in practice, to the impossibility of compliance), since the person neither possesses the product nor imports it and/or holds stocks of it?
5. If any of those questions is answered in the negative: Having regard to the objective of Council Directive 2009/119/EC of 14 September 2009 imposing an obligation on Member States to maintain minimum stocks of crude oil and/or petroleum products, and in the light of the principle of proportionality under Article 52(1) of the Charter of Fundamental Rights of the European Union, in conjunction with Article 17 thereof, must recital 33 and Article 1, Article 3, Article 8 and Article 2(i) and (j) of that directive be interpreted as meaning that a person who has made intra-Community receipts or imports of a particular type of product can only be obliged to establish and maintain emergency stocks of the same type of product which was the subject of the intra-Community receipts/imports?

<sup>(1)</sup> OJ 2009 L 265, p. 9.

<sup>(2)</sup> OJ 2008 L 304, p. 1.

---

**Request for a preliminary ruling from the Kammergericht Berlin (Germany) lodged on 15 June 2022 — Generalstaatsanwaltschaft Berlin**

(Case C-396/22)

(2022/C 359/39)

*Language of the case: German*

**Referring court**

Kammergericht Berlin