

Questions referred

1. Must transactions involving (i) an offer for the cash purchase of debentures, (ii) the issue of debentures and (iii) a public offer for subscription of shares be considered 'overall transactions' within the meaning of the case-law of the Court of Justice resulting from the judgments in *Isabele Gielen* (C-299/13) ⁽¹⁾ and *Air Berlin* (C-573/16)? ⁽²⁾
2. Must the expression 'formalities relating thereto', used in Article 5(2)(b) of Council Directive 2008/7/EC of 12 February 2008, ⁽³⁾ be interpreted as covering the purchase of financial intermediation services that are ancillary to transactions involving (i) an offer for the cash purchase of debentures, (ii) the issue of debentures and (iii) a public offer for subscription of shares?
3. Can Article 5(2)(b) of Council Directive 2008/7/EC of 12 February 2008 be interpreted as precluding the levying of stamp duty on fees charged for financial intermediation services provided by a bank in relation to (i) the repurchase of debt securities, (ii) the issue and placing on the market of negotiable securities and (iii) the increase of capital through a public subscription of the shares issued, where such services include the obligation to identify and contact investors in order to distribute transferrable securities, receive subscription or purchase orders and, in some cases, purchase the transferrable securities to which the offer relates?
4. Must the above questions be answered differently depending on whether the provision of financial services is required by law or optional?

⁽¹⁾ EU:C:2014:2266.

⁽²⁾ EU:C:2017:772.

⁽³⁾ Council Directive 2008/7/EC of 12 February 2008 concerning indirect taxes on the raising of capital (OJ 2008 L 46, p. 11).

Request for a preliminary ruling from the Administrativen sad Varna (Bulgaria) lodged on 28 June 2022 — 'DEVNIA TSIMENT' AD v Zamestnik-predsedatel na Darzhavna agentsia 'Darzhaven rezerv i voennovremenni zapasi'

(Case C-428/22)

(2022/C 389/05)

Language of the case: Bulgarian

Referring court

Administrativen sad Varna

Parties to the main proceedings

Applicant: 'DEVNIA TSIMENT' AD

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

Questions referred

1. In light of the objective of the directive and Article 2(d) of Regulation (EC) No 1099/2008 ⁽¹⁾ of the European Parliament and of the Council of 22 October 2008 on energy statistics, and in light of the principle of proportionality laid down in Article 52(1) in conjunction with Article 17 of the Charter of Fundamental Rights of the European Union, must the 33rd recital, Article 1, Article 3, Article 8 and Article 2(i) and (j) of Council Directive 2009/119/EC ⁽²⁾ of 14 September 2009 imposing an obligation on Member States to maintain minimum stocks of crude oil and/or petroleum products be interpreted as precluding national legislation, such as that at issue in the main proceedings, according to which persons who have made intra-Community acquisitions of petroleum coke for production purposes in accordance with point 3.4.23 of Annex A to Regulation (EC) No 1099/2008 may be required to build up emergency stocks?

2. Must the 33rd recital, Article 1, Article 3, Article 8 and Article 2(i) and (j) of the directive be interpreted as precluding national legislation, such as that at issue in the main proceedings, which restricts the types of products in respect of which emergency stocks must be built up and held to some of the types of products in Article 2(i) of the directive in conjunction with Chapter 3.4 of Annex A to Regulation (EC) No 1099/2008?
3. Must the 33rd recital, Article 1, Article 3, Article 8 and Article 2(i) and (j) of the directive be interpreted as precluding national legislation, such as that at issue in the main proceedings, according to which the realisation by a person of intra-Community acquisitions or imports of a type of product referred to in Article 2(i) of the directive, read in conjunction with Chapter 3.4 of Annex A to Regulation (EC) No 1099/2008 entails an obligation on that person to build up and hold emergency stocks of another, different type of product?
4. Must the 33rd recital in the preamble, Article 1, Article 3, Article 8 and Article 2(i) and (j) of the directive be interpreted as precluding national legislation, such as that at issue in the main proceedings, according to which a person is obliged to build up and hold stocks of a product that they do not use in the course of their economic activity and that is unrelated to that activity and where that obligation also entails a significant financial burden (leading, in practice, to compliance being impossible) because the person is neither in possession of the product nor are they its importer and/or holder?
5. In the event that one of the above questions is answered in the negative: Having regard to the aim of the directive and in light of the principle of proportionality laid down in Article 52(1) in conjunction with Article 17 of the Charter of Fundamental Rights of the European Union, must the 33rd recital, Article 1, Article 3, Article 8 and Article 2(i) and (j) 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 be interpreted as meaning that the importer of a particular type of product can only be required to build up and hold emergency stocks of the same type of product as the product that was imported?

⁽¹⁾ OJ 2008 L 304, p. 1.

⁽²⁾ OJ 2009 L 265, p. 9.

Request for a preliminary ruling from the Riigikohus (Estonia) lodged on 4 July 2022 — R.M. and E.M. v Eesti Vabariik (Põllumajanduse Registre ja Informatsiooni Amet)

(Case C-437/22)

(2022/C 389/06)

Language of the case: Estonian

Referring court

Riigikohus

Parties to the main proceedings

Appellants on a point of law: R.M. and E.M.

Other party and injured party: Eesti Vabariik (represented by the Põllumajanduse Registre ja Informatsiooni Amet)

Questions referred

1. In circumstances such as those in the main proceedings, does a basis with a direct legal effect flow from Article 7 of Council Regulation (EC, Euratom) No 2988/95 ⁽¹⁾ of 18 December 1995, read in conjunction with Article 56(1) and Article 54(1) of Regulation (EU) No 1306/2013 ⁽²⁾ of the European Parliament and of the Council of 17 December 2013 and with Article 35(6) of Commission Delegated Regulation (EU) No 640/2014 ⁽³⁾ of 11 March 2014, for the recovery of fraudulently obtained aid financed by the European Agricultural Fund for Rural Development (EAFRD) from the representatives of a beneficiary legal person who intentionally made false declarations with a view to fraudulently obtaining the aid?