

Third, the General Court erred in law and/or made a manifest error of assessment or appraisal in concluding that the exemptions, if they did confer a selective advantage (*quod non*), could not be justified on the basis of administrative practicability.

Fourth, the General Court erred in law in its failure properly to consider and apply the ruling of the judgment of 12 September 2006, *Cadbury Schweppes and Cadbury Schweppes Overseas*, C-196/04, EU:C:2006:544, whether when considering the issue of reference framework, selective advantage or considering the question of whether or not the exemptions (or any of them) might be justified in order to protect the freedom of establishment under Article 49 TFEU. Further or alternatively, the General Court failed to give adequate reasons for its conclusions on this issue.

(¹) OJ 2019 L 216, p. 1.

**Request for a preliminary ruling from the Consiglio di Stato (Italy) lodged on 19 August 2022 —
Autorità di Regolazione per Energia Reti e Ambiente (ARERA) v Fallimento Esperia SpA, Gestore dei
Servizi Energetici SpA — GSE**

(Case C-558/22)

(2022/C 441/13)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Appellant: Autorità di Regolazione per Energia Reti e Ambiente (ARERA)

Respondents: Fallimento Esperia SpA, Gestore dei Servizi Energetici SpA — GSE

Questions referred

Do the following provisions:

- Article 18 TFEU, in so far as it prohibits any discrimination on grounds of nationality within the scope of the Treaties;
- Articles 28 and 30 TFEU, in so far as they provide for the abolition of customs duties on imports and measures having equivalent effect;
- Article 110 TFEU, in so far as it prohibits taxation on imports in excess of those imposed directly or indirectly on similar domestic products;
- Article 34 TFEU, in so far as it prohibits the adoption of measures having equivalent effect to quantitative restrictions on imports;
- Articles 107 and 108 TFEU, in so far as they prohibit the implementation of a State aid measure not notified to the Commission and incompatible with the internal market; and
- Directive 2009/28/EC, (¹) in so far as it seeks to promote intra-Community trade in green electricity, thus promoting, moreover, the production capacity of individual Member States,

preclude national legislation such as the one described above, which imposes on importers of green electricity a financial burden that does not apply to domestic producers of the same product?

(¹) Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (OJ 2009 L 140, p. 16).

Request for a preliminary ruling from the Commissione tributaria regionale per il Friuli Venezia Giulia (Italy) lodged on 23 August 2022 — Ferriere Nord SpA and Others v Autorità Garante della Concorrenza e del Mercato, Agenzia delle Entrate — Riscossione

(Case C-560/22)

(2022/C 441/14)

Language of the case: Italian

Referring court

Commissione tributaria regionale per il Friuli Venezia Giulia

Parties to the main proceedings

Appellants: Ferriere Nord SpA, SIAT — Società Italiana Acciai Trafilati SpA, Acciaierie di Verona SpA

Respondents: Autorità Garante della Concorrenza e del Mercato, Agenzia delle Entrate — Riscossione

Question referred

Can Article 5-bis of Decree-Law No 1 of 24 January 2012 (as amended by Conversion Law No 27 of 24 March 2012) — which added paragraphs 7-ter and 7-quater to Article 10 of Law No 287/1990 — under which the institutional activities of the Italian competition authority are financed solely by a ‘contribution’ payable only by companies (Italian or foreign, in the event that they have branch offices with permanent representation in Italy that are subject to registration with the Companies’ Register) with total revenue exceeding EUR 50 million, which therefore does not affect to a fair and proportionate extent all market participants, for whose benefit (in addition to consumers) the activities of that authority are undertaken, be interpreted as being compatible with EU law, in particular:

- Article 4(3) TEU (principle of sincere cooperation);
- the principles underlying the internal market (including the right of establishment and free movement of capital);
- Articles 101, 102 and 103 TFEU;
- Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (¹) (now Articles 101 and 102 TFEU);
- Directive (EU) 2019/1 of the European Parliament and of the Council of 11 December 2018 to empower the competition authorities of the Member States to be more effective enforcers and to ensure the proper functioning of the internal market (²) (in particular recitals 1, 6, 8, 17 and 26, Article 1(1), Article 2(10) and Article 5(1));

read in the light of Articles 17(1) (right to property), 20 (equality before the law), 21(1) (non-discrimination) and 52(1) (principle of proportionality) of the Charter of Fundamental Rights of the European Union;