

**Judgment of the Court (Ninth Chamber) of 2 June 2016 (request for a preliminary ruling from the Administrativen sad Pleven — Bulgaria) — ‘Polihim-SS’ EOOD v Nachalnik na Mitnitsa Svishtov**

(Case C-355/14) <sup>(1)</sup>

*(Reference for a preliminary ruling — Indirect taxation — Excise duties — Directive 2008/118/EC — Chargeability of excise duties — Article 7(2) — Concept of ‘departure of excise goods from a duty suspension arrangement’ — Taxation of energy products and electricity — Directive 2003/96/EC — Article 14(1)(a) — Use of energy products to produce electricity — Purchase and resale by an intermediate purchaser of energy products located in a tax warehouse — Direct delivery of energy products to an operator for the production of electricity — Indication of the intermediate purchaser as the ‘consignee’ of the products in the tax documents — Infringement of the requirements of national law as regards exemption from excise duty — Refusal of exemption — Proof of the use of the products in circumstances permitting exemption from excise duty — Proportionality)*

(2016/C 287/06)

Language of the case: Bulgarian

**Referring court**

Administrativen sad Pleven

**Parties to the main proceedings**

Applicant: ‘Polihim-SS’ EOOD

Defendant: Nachalnik na Mitnitsa Svishtov

Intervening party: Okrazhna prokuratura Pleven

**Operative part of the judgment**

1. Article 7(2) of Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC must be interpreted as meaning that the sale of excise goods held by an authorised warehousekeeper in a tax warehouse does not bring about their release for consumption until the time at which those goods are physically removed from that tax warehouse.
2. Article 14(1)(a) of Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity, read in conjunction with Article 7 of Directive 2008/118, must be interpreted as precluding a refusal by the national authorities to exempt from excise duty energy products which, after having been sold by an authorised warehousekeeper to an intermediate purchaser, are sold on by that purchaser to an end-user who satisfies all the requirements under national law to benefit from an exemption of excise duty on those products and to whom those products are delivered directly by that authorised warehousekeeper from his tax warehouse, on the sole ground that the intermediate purchaser, declared by that warehousekeeper as the consignee of those products, does not have the status of end-user authorised under national law to receive energy products exempt from excise duty.

<sup>(1)</sup> OJ C 329, 22.9.2014.