

**Judgment of the Court (Seventh Chamber) of 19 October 2017 (request for a preliminary ruling from the High Court of Justice of England and Wales (Chancery Division) — United Kingdom) — Air Berlin plc v Commissioners for Her Majesty's Revenue and Customs**

(Case C-573/16) <sup>(1)</sup>

*(Reference for a preliminary ruling — Indirect taxes — Raising of capital — Imposition of a duty of 1,5 % on the transfer into a clearance service of newly issued shares or shares intended to be listed on a stock exchange of a Member State)*

(2017/C 424/17)

Language of the case: English

**Referring court**

High Court of Justice of England and Wales (Chancery Division)

**Parties to the main proceedings**

Applicant: Air Berlin plc

Defendant: Commissioners for Her Majesty's Revenue and Customs

**Operative part of the judgment**

1. Articles 10 and 11 of Council Directive 69/335/EEC of 17 July 1969 concerning indirect taxes on the raising of capital must be interpreted as precluding the taxation of a transfer of shares such as that at issue in the main proceedings, whereby the legal title to all the shares of a company has been transferred to a clearance service for the sole purpose of listing those shares on a stock exchange, without there being any change in the beneficial ownership of those shares.
2. Article 5(1)(c) of Council Directive 2008/7/EC of 12 February 2008 concerning indirect taxes on the raising of capital must be interpreted as precluding the taxation of a transfer of shares such as that at issue in the main proceedings, whereby the legal title to shares that have been newly issued on an increase in capital has been transferred to a clearance service for the sole purpose of offering those new shares for purchase.
3. The answer to the first and second questions does not differ where legislation of a Member State, such as that at issue in the main proceedings, enables an operator of a clearance service, when it receives approval from the taxation authority, to elect that no stamp duty is payable on the initial transfer of shares into the clearance service but that a stamp duty reserve tax is instead charged on each subsequent sale of shares.

---

<sup>(1)</sup> OJ C 22, 23.1.2017.

---

**Judgment of the Court (Eighth Chamber) of 19 October 2017 — Viktor Fedorovych Yanukovych v Council of the European Union, European Commission, Republic of Poland**

(Case C-598/16 P) <sup>(1)</sup>

*(Appeal — Restrictive measures taken in view of the situation in Ukraine — List of persons, entities and bodies subject to the freezing of funds and economic resources — Inclusion of the appellant's name)*

(2017/C 424/18)

Language of the case: English

**Parties**

Appellant: Viktor Fedorovych Yanukovych (represented by T. Beazley QC)

*Other parties to the proceedings:* Council of the European Union (represented by P. Mahnič Bruni and J.-P. Hix, Agents), European Commission (represented initially by S. Bartelt and J. Norris-Usher, and subsequently by E. Paasivirta and J. Norris-Usher, acting as Agents), Republic of Poland

### **Operative part of the judgment**

*The Court:*

1. Dismisses the appeal;
2. Orders Mr Viktor Fedorovych Yanukovych to bear his own costs and to pay those incurred by the Council of the European Union.
3. Orders the European Commission to bear its own costs

---

<sup>(1)</sup> OJ C 30, 30.1.2017.

---

### **Judgment of the Court (Eighth Chamber) of 19 October 2017 — Oleksandr Viktorovych Yanukovych v Council of the European Union, European Commission**

(Case C-599/16 P) <sup>(1)</sup>

*(Appeal — Restrictive measures taken in view of the situation in Ukraine — List of persons, entities and bodies subject to the freezing of funds and economic resources — Inclusion of the appellant's name)*

(2017/C 424/19)

*Language of the case: English*

### **Parties**

*Appellant:* Oleksandr Viktorovych Yanukovych (represented by T. Beazley QC)

*Other parties to the proceedings:* Council of the European Union (represented by P. Mahnič Bruni and J.-P. Hix, Agents), European Commission (represented initially by S. Bartelt and J. Norris-Usher, and subsequently by E. Paasivirta and J. Norris-Usher, acting as Agents)

### **Operative part of the judgment**

*The Court:*

1. Dismisses the appeal;
2. Orders Mr Oleksandr Viktorovych Yanukovych to bear his own costs and to pay those incurred by the Council of the European Union;
3. Orders the European Commission to bear its own costs.

---

<sup>(1)</sup> OJ C 30, 30.1.2017.

---

### **Order of the Court (Second Chamber) of 12 October 2017 (request for a preliminary ruling from the Upper Tribunal (Tax and Chancery Chamber) — United Kingdom) — Stephen Fisher, Anne Fisher, Peter Fisher v Commissioners for Her Majesty's Revenue and Customs**

(Case C-192/16) <sup>(1)</sup>

*(Reference for a preliminary ruling — Article 99 of the Rules of Procedure of the Court of Justice — Article 355(3) TFEU — Status of Gibraltar — Article 49 TFEU — Article 63 TFEU — Freedom of establishment — Free movement of capital — Purely internal situation)*

(2017/C 424/20)

*Language of the case: English*

### **Referring court**

Upper Tribunal (Tax and Chancery Chamber)