

3) an obligation to be bound by the legal opinion of the highest instances,

whereby this binding effect is generally ordered by statute, i.e. in particular also for those situations in which it is not guaranteed *ex lege* that the higher courts, in proceedings meeting in every respect the requirements of Article 6(1) of the European Convention for the Protection of Human Rights and Fundamental Freedoms and Article 47 of the Charter of Fundamental Rights of the European Union (but rather characterised in particular by

1) the prohibition on making new claims and defences or presenting new facts and evidence (*Neuerungsverbot*),

2) the binding nature of the facts of the case found by the lower court,

3) reference to the relevant factual and legal situation existing at the time of the lower court's decision, and

4) the scope of the power to rule being limited simply to fundamental legal questions (Supreme Administrative Court), on the one hand, and violations of the sphere of fundamental rights (Constitutional Court) on the other),

have conducted both an autonomous assessment of consistency and proportionality and an assessment based on the current factual situation

— compatible with the freedom of establishment guaranteed in Article 49 TFEU and the freedom of services guaranteed in Article 56 TFEU?

**Request for a preliminary ruling from the Tribunal Administrativo e Fiscal de Coimbra (Portugal)
lodged on 16 November 2017 — Luís Manuel dos Santos v Fazenda Pública**

(Case C-640/17)

(2018/C 042/08)

Language of the case: Portuguese

Referring court

Tribunal Administrativo e Fiscal de Coimbra

Parties to the main proceedings

Applicant: Luís Manuel dos Santos

Defendant: Fazenda Pública

Question referred

Does the principle of free movement of goods between Member States, set out in Article 110 of the Treaty on the Functioning of the European Union (TFEU), preclude a rule of national law [Article 2(1)(b) of the CIUC ⁽¹⁾], interpreted as meaning that annual road tax should not take into account the date of first registration when it was allocated in another Member State and should only be based on the date of registration in Portugal, if that interpretation results in higher taxation of vehicles imported from another Member State?

⁽¹⁾ Código do Imposto Único de Circulação (Annual Road Tax Code)

Reference for a preliminary ruling from the High Court (Ireland) made on 27 November 2017 — M. A., S.A., A.Z. v The International Protection Appeals Tribunal, The Minister for Justice and Equality, Attorney General, Ireland

(Case C-661/17)

(2018/C 042/09)

Language of the case: English

Referring court

High Court (Ireland)

Parties to the main proceedings

Applicants: M.A., S.A., A.Z.

Defendants: International Protection Appeals Tribunal, Minister for Justice and Equality, Attorney General, Ireland

Questions referred

- 1) When dealing with transfer of a protection applicant under regulation 604/2013 ⁽¹⁾ to the UK, is a national decision-maker, in considering any issues arising in relation to the discretion under art. 17 and/or any issues of protection of fundamental rights in the UK, required to disregard circumstances as they stand at the time of such consideration in relation to the proposed withdrawal of the UK from the EU?
- 2) Does the concept of the 'determining member state' in regulation 6[0]4/2013 include the role of the member state in exercising the power recognised or conferred by art. 17 of the regulation?
- 3) Do the functions of a member state [under] art. 6 of regulation 604/2013 include the power recognised or conferred by art. 17 of the regulation?
- 4) Does the concept of an effective remedy apply to a first instance decision under art. 17 of regulation 604/2013 such that an appeal or equivalent remedy must be made available against such a decision and/or such that national legislation providing for an appellate procedure against a first instance decision under the regulation should be construed as encompassing an appeal from a decision under art. 17?
- 5) Does art. 20(3) of regulation 604/2013 have the effect that in the absence of any evidence to displace a presumption that it is in the best interests of a child to treat his or her situation as indissociable from that of the parents, the national decision maker is not required to consider such best interests separately from the parents as a discrete issue or as a starting point for consideration of whether the transfer should be take place?

⁽¹⁾ Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (OJ 2013, L 180, p. 31).

Appeal brought on 27 November 2017 by the European Commission against the order of the General Court (Second Chamber) delivered on 12 September 2017 in Case T-247/16: Trasta Komerbanka AS and Others v European Central Bank

(Case C-665/17 P)

(2018/C 042/10)

Language of the case: English

Parties

Appellant: European Commission (represented by: V. Di Bucci, A. Steiblytė, K.-Ph. Wojcik, Agents)

Other parties to the proceedings: Trasta Komerbanka AS, Ivan Fursin, Igors Buimisters, C & R Invest SIA, Figon Co. Ltd, GCK Holding Netherlands BV, Rikam Holding SA, European Central Bank

Form of order sought

The applicant claims that the Court should:

- set aside the order of the General Court (Second Chamber) of 12 September 2017 in case T-247/16, Trasta Komerbanka AS, Mr Ivan Fursin, Mr Igors Buimisters, SIA C & R Invest, Figon Co Limited, G.C.K J Holding Netherlands B.V. and Rikam Holding S.A. — SPF against European Central Bank insofar as it dismisses the objection of inadmissibility as regards the application brought by the shareholders of Trasta Komerbanka AS;