

4. If the method of calculation laid down by national law, using the discretion granted [to Member States] by the second subparagraph of Article 5(4) of Directive 2004/25/EC of the European Parliament and of the Council of 21 April 2004 on takeover bids, results in a higher price than that resulting from the application of the first subparagraph of Article 5(4), is it consistent with the objective of the Directive to always choose the higher price?
5. If damage is caused to an individual as a result of the incorrect application of EU law, may national law provide for the limitation of compensation for such damage if that limitation applies equally to damage suffered as a result of the incorrect application of national law and to damage suffered as a result of the incorrect application of EU law?
6. Do the provisions of Directive 2004/25/EC of the European Parliament and of the Council of 21 April 2004 on takeover bids that are applicable to the present case confer rights on individuals, that is to say, is the corresponding requirement for State liability met?

(¹) OJ 2004 L 142, p. 12.

Request for a preliminary ruling from the Augstākā tiesa (Senāts) (Latvia) lodged on 7 October 2019 — ZS Plaukti v Lauku atbalsta dienests

(Case C-736/19)

(2019/C 413/38)

Language of the case: Latvian

Referring court

Augstākā tiesa (Senāts)

Parties to the main proceedings

Appellant on a point of law: ZS 'Plaukti'

Other party in the appeal on a point of law: Lauku atbalsta dienests

Questions referred

1. Does the third subparagraph of Article 16(5) of Commission Regulation (EU) No 65/2011 of 27 January 2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1698/2005, (¹) as regards the implementation of control procedures as well as cross-compliance in respect of rural development support measures apply to a situation in which the applicant has failed to comply with the requirements relating to mowing the area for which the maintenance of pasture biodiversity payments were claimed (a requirement which goes beyond the mandatory minimum requirements under Article 39(3) of Regulation No 1698/2005 (²)) but where no change in the crop group has been found?
2. Can both the penalty established in the third subparagraph of Article 16(5) of Commission Regulation (EU) No 65/2011 of 27 January 2011 and the penalty laid down in Article 18(1)(a) of Regulation No 65/2011 be imposed simultaneously for a single infringement?

3. Do Articles 4 and 6 of Council Regulation (EC) No 73/2009⁽³⁾ of 19 January 2009, in conjunction with Article 39(3) of Council Regulation (EC) No 1698/2005 of 20 September 2005 preclude national legislation according to which the same requirement can simultaneously be a mandatory minimum requirement and impose requirements greater than the minimum mandatory requirements (requirement for an agri-environment payment)?

⁽¹⁾ OJ 2011 L 25, p. 8.

⁽²⁾ Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) (OJ 2005 L 277, p. 1).

⁽³⁾ Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003 (OJ 2009 L 30, p. 16).

Request for a preliminary ruling from the tribunal administratif de Montreuil (France) lodged on 7 October 2019 — Bank of China Limited v Ministre de l'Action and des Comptes publics

(Case C-737/19)

(2019/C 413/39)

Language of the case: French

Referring court

Tribunal administratif de Montreuil

Parties to the main proceedings

Applicant: Bank of China Limited

Defendant: Ministre de l'Action and des Comptes publics

Questions referred

1. Are the solutions adopted in the judgment of 24 January 2019, *Morgan Stanley & Co International plc v Ministre de l'Économie et des Finances* (C-165/17) applicable where a branch, on the one hand, carries out, in a Member State, transactions subject to VAT, and, on the other, supplies services for the benefit of its principal establishment and branches established in a third country?
2. Where a branch established in a Member State claims a right to deduct based on the expenditure incurred by it in connection with the supply of services for the benefit of its principal establishment in a third-country, that is exports of financial and banking services, may the taxable person deduct value added tax pursuant to Article 169(a) or Article 169(c) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, p. 1)?
3. If the first question is answered in the affirmative and the branch may claim a deduction pursuant to Article 169(a), under what conditions may banking transactions carried out by the principal establishment established in a third country be regarded as giving rise to a right to deduct if they had been carried out in the Member State the expenditure subject to value added tax is incurred? If the first question is answered in the affirmative and the branch may claim a deduction pursuant to Article 169(c), under what conditions may the recipient of the services be regarded as being established outside the European Union where the branch is located in the European Union and forms part of one and the same legal entity as its principal establishment?