



Reports of Cases

OPINION OF ADVOCATE GENERAL
PITRUZZELLA
delivered on 17 September 2020¹

Case C-420/19

Maksu- ja Tolliamet
v
Heavyinstall OÜ

(Request for a preliminary ruling
from the Riigikohus (Supreme Court, Estonia))

(Reference for a preliminary ruling – Mutual assistance for the recovery of claims relating to taxes, duties and other measures – Request for precautionary measures – Court decision from the applicant Member State to take precautionary measures – Competence of the court in the requested Member State to assess whether the conditions for taking precautionary measures have been met on the basis of its national law and in accordance with its administrative practices)

I. Introduction

1. In the context of mutual assistance between Member States for the recovery of claims relating to taxes, duties and other measures laid down by Directive 2010/24/EU,² is the court of the Member State which has received the request for precautionary measures bound to the view taken by the court of the applicant Member State in relation to the necessity and possibility of those measures when a document containing that view has been submitted with the request?
2. This is in essence the question raised by the request for a preliminary ruling made by the Riigikohus (Supreme Court, Estonia).
3. This request for a preliminary ruling has arisen in a dispute relating to an appeal lodged by the Maksu- ja Tolliamet (the Tax and Customs Board, Estonia; ‘the Estonian tax authorities’) against a decision of the Tallinna Ringkonnakohus (Court of Appeal, Tallinn, Estonia), by which that court refused its request to authorise precautionary measures against the undertaking Heavyinstall OÜ (‘Heavyinstall’). That request was made in response to an application for precautionary measures submitted by the Finnish authorities to the Estonian authorities in accordance with the provisions on mutual assistance laid down by Directive 2010/24/EU.

¹ Original language: Italian.

² Council Directive of 16 March 2010 concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures (OJ 2010 L 84, p. 1).

II. Legal framework

A. EU law

4. Article 14 of Directive 2010/24, entitled ‘Disputes’, provides:

‘1. Disputes concerning the claim, the initial instrument permitting enforcement in the applicant Member State or the uniform instrument permitting enforcement in the requested Member State and disputes concerning the validity of a notification made by a competent authority of the applicant Member State fall within the competence of the competent bodies of the applicant Member State. If, in the course of the recovery procedure, the claim, the initial instrument permitting enforcement in the applicant Member State or the uniform instrument permitting enforcement in the requested Member State is contested by an interested party, the requested authority shall inform that party that such an action must be brought by the latter before the competent body of the applicant Member State in accordance with the laws in force there.

2. Disputes concerning the enforcement measures taken in the requested Member State or concerning the validity of a notification made by a competent authority of the requested Member State shall be brought before the competent body of that Member State in accordance with its laws and regulations.

...’

5. Article 16 of Directive 2010/24, entitled ‘Request for precautionary measures’, provides:

‘1. At the request of the applicant authority, the requested authority shall take precautionary measures, if allowed by its national law and in accordance with its administrative practices, to ensure recovery where a claim or the instrument permitting enforcement in the applicant Member State is contested at the time when the request is made, or where the claim is not yet the subject of an instrument permitting enforcement in the applicant Member State, in so far as precautionary measures are also possible, in a similar situation, under the national law and administrative practices of the applicant Member State.

The document drawn up for permitting precautionary measures in the applicant Member State and relating to the claim for which mutual assistance is requested, if any, shall be attached to the request for precautionary measures in the requested Member State. This document shall not be subject to any act of recognition, supplementing or replacement in the requested Member State.

...’

6. Article 17 of Directive 2010/24, entitled ‘Rules governing the request for precautionary measures’, provides:

‘In order to give effect to Article 16, Articles 10(2), 13(1) and (2), 14, and 15 shall apply *mutatis mutandis*.’

7. Article 18 of Directive 2010/24, entitled ‘Limits to the requested authority’s obligations’, provides:

‘1. The requested authority shall not be obliged to grant the assistance provided for in Articles 10 to 16 if recovery of the claim would, because of the situation of the debtor, create serious economic or social difficulties in the requested Member State, in so far as the laws, regulations and administrative practices in force in that Member State allow such exception for national claims.

2. The requested authority shall not be obliged to grant the assistance provided for in Articles 5 and 7 to 16, if the initial request for assistance pursuant to Article 5, 7, 8, 10 or 16 is made in respect of claims which are more than 5 years old, dating from the due date of the claim in the applicant Member State to the date of the initial request for assistance.

...

3. A Member State shall not be obliged to grant assistance if the total amount of the claims covered by this Directive, for which assistance is requested, is less than EUR 1 500.

4. The requested authority shall inform the applicant authority of the grounds for refusing a request for assistance.'

B. Estonian law

8. Paragraph 130 of the Maksukorralduse seadus (Tax Code, 'the Estonian Tax Code'), entitled 'Enforcement action by the tax authority', provides:

'(1) If the taxable person has not met the financial obligation within the period set in the administrative act of the tax authority or in a ruling cited in points 2 or 3 of Paragraph 128(4), the tax authority shall take steps to recover the debt by way of compulsory enforcement. The tax authority shall have the right:

1. to request the entry of a note on a prohibition of disposal in the land register or another register of assets without the consent of the party concerned;
2. to request the creation of a mortgage in respect of real estate, a ship entered in the shipping register or an aircraft entered in the civil aviation register according to the provisions of the property laws regarding the regulation of forced mortgages;
3. to carry out the enforcement in terms of financial rights pursuant to the provisions of the present law and the legislation regulating the enforcement procedure;
4. to attach other property rights in respect of which no enforcement within the meaning of point 3 of this subparagraph is possible, and to request the entry of a note on a prohibition of disposal with regard to those rights in the corresponding register on those rights;
5. to issue the order to block securities or a securities account in accordance with the provisions of the securities register law ...'

9. Paragraph 136¹ of the Estonian Tax Code, entitled 'Precautionary measures before establishment of the monetary claim or liability', provides:

'(1) If, upon inspection of the correct payment of taxes, there is reason to suspect that, following the establishment of a monetary claim or liability arising from tax legislation, the enforceability of that claim or liability may prove to be much more difficult or impossible due to the conduct of the taxable person, the head of the tax authority or an officer authorised thereby may ask the Administrative Court to grant approval for an enforcement measure provided for in Paragraph 130(1) of the present law.

...'

III. The facts, the main proceedings and the questions referred for a preliminary ruling

10. On 13 March 2018, the Finnish tax authorities submitted a request to the Estonian tax authorities for precautionary measures in relation to Heavyinstall, in order to ensure the fulfilment of that undertaking's expected tax liability. The request was made pursuant to Article 16 of Directive 2010/24 ('the request for assistance'). The request was accompanied by a judgment from the Keski-Pohjanmaan käräjäoikeus (Keski-Pohjanmaan District Court, Finland) of 8 February 2018 which, following an application to that effect by the Finnish tax authorities, authorised the attachment of Heavyinstall's assets as security for a claim of EUR 320 022.

11. According to that court, because Heavyinstall's permanent establishment and centre of life were in Finland, that undertaking was required to fulfil its tax obligations in that Member State. However, despite having a permanent establishment in Finland, Heavyinstall had not declared or paid any taxes there. Moreover, the sole shareholder had made a false statement both in relation to the economic activity of the undertaking and in relation to his place of residence. There was therefore a risk that Heavyinstall could have the same attitude to the tax liability to be determined as a result of the current tax proceedings, and could, in particular, conceal, destroy or otherwise transfer, transmit or pass on its assets to third parties or act in another way endangering the satisfaction of the Finnish tax authority's claim.

12. In response to the request for assistance, the Estonian tax authorities lodged an application on 29 March 2018 before the Tallinna Halduskohus (Administrative Court, Tallinn, Estonia) for approval of precautionary measures and, specifically, the entry in Estonia of prohibitions of disposal in relation to the vehicles owned by Heavyinstall (two trailers each worth around EUR 7 500 and one HGV worth around EUR 9 500), and the attachment of the undertaking's bank accounts in all Estonian credit institutions in the amount of EUR 297 304 ('the application for approval of precautionary measures').

13. By order of 3 April 2018, that court rejected the application for approval of precautionary measures.

14. In response to that order, the Estonian tax authorities lodged an appeal before the Tallinna Ringkonnakohus (Court of Appeal, Tallinn), which was rejected. That court was not convinced of the fact that enforcement of Heavyinstall's tax obligations could prove to be more difficult or impossible due to the conduct of the taxable person and, therefore, that the condition laid down in Paragraph 136¹(1) of the Estonian Tax Code had been met.

15. The Estonian tax authorities lodged an appeal against the judgment of the Tallinna Ringkonnakohus (Court of Appeal, Tallinn) before the Riigikohus (Supreme Court, 'the referring court'), requesting that the order be set aside and a new order issued upholding the request for precautionary measures against Heavyinstall. It is in the context of that appeal that the referring court has raised the question as to the interpretation of Directive 2010/24, in particular Article 16 on requests for precautionary measures.

16. In the view of the referring court, it is decisive for the purposes of resolving the dispute in the main proceedings to clarify whether a court in a Member State that is asked to rule on a request for precautionary measures lodged by the tax authorities of another Member State on the basis of Article 16 of Directive 2010/24 may itself assess the evidence submitted in support of that request, and decide according to its own conviction whether the conditions for applying the measures are met, or whether that court must proceed on the basis of the assessment made by the court in the applicant Member State.

17. The referring court therefore decided to stay judgment and to refer the following request for a preliminary ruling to the Court by means of an order filed on 29 May 2019:

‘Is Article 16 of Council Directive 2010/24/EU of 16 March 2010 concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures to be interpreted as meaning that the court of the Member State which has received the request for precautionary measures, when ruling on that request on the basis of national law (which is possible for the requested court in accordance with Article 16(1)), is bound to the view taken by the court of the state of establishment of the applicant in relation to the necessity and possibility of the precautionary measure when a document containing that view has been submitted to the court (last sentence of [the second subparagraph of Article 16(1)], according to which that document must not be subject to any recognition, supplementing or replacement in the requested Member State)?’

IV. Legal analysis

18. In its request for a preliminary ruling, the referring court is asking the Court whether Article 16 of Directive 2010/24 should be interpreted as meaning that the court of the Member State that has received the request for precautionary measures, when ruling on that request on the basis of national law, is bound to the view taken by the court in the applicant Member State in relation to the necessity and possibility of precautionary measures when a document containing that view has been submitted to the court.

19. This request for a preliminary ruling implies a determination of the scope of the powers of the court in the Member State to which a request for precautionary measures has been submitted in the context of the system of mutual assistance between Member States created by Directive 2010/24, with regard, in particular, to two separate elements: the necessity of the precautionary measures requested and whether it is possible to take them.

20. As a preliminary point, we should note that in accordance with the second subparagraph of Article 16(1) of Directive 2010/24, a request for assistance in relation to precautionary measures may or may not be accompanied by a document drawn up for the purposes of permitting precautionary measures in the applicant Member State and relating to the claim for which mutual assistance is requested.³ That document may be an administrative decision or a court judgment issued by a court in the applicant Member State.⁴

21. According to the order for reference, in the main proceedings pending before the referring court, the request for assistance in relation to the precautionary measures sent by the Finnish authorities to the Estonian authorities was accompanied by a court judgment containing an analysis indicating that the conditions had been met, in Finnish law, for precautionary measures against Heavyinstall. Both the Tallinna Halduskohus (Administrative Court, Tallinn) and the Tallinna Ringkonnakohus (Court of Appeal, Tallinn) reassessed whether those conditions had been met on the basis of specific criteria under Estonian law.

³ Such a request may not, however, be accompanied by the uniform instrument described in Article 12 of Directive 2010/24 because a reading of that provision in combination with Article 11 of the directive suggests that that instrument is reserved, in principle, for requests for recovery. A uniform instrument may, however, serve as the basis for a request for precautionary measures submitted under the second subparagraph of Article 14(4) of the directive, namely when a dispute as described in paragraph 1 of that article (see below, point 41) arises after the request for recovery has been lodged and for the purposes of securing that recovery. That latter case is clearly different from the cases covered by Article 16 (see below, point 28).

⁴ This can be seen from the model declaration specifying reasons and circumstances for a request for precautionary measures, as provided in Annex III to Commission Implementing Regulation (EU) No 1189/2011 of 18 November 2011 laying down detailed rules in relation to certain provisions of Council Directive 2010/24/EU concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures (OJ 2011 L 302, p. 16). Indeed, that model states that a request for precautionary measures on the basis of Article 16 of Directive 2010/24 may be based on an administrative decision permitting precautionary measures in the applicant Member State or on judicial confirmation that precautionary measures are justified, and also requires that the relevant decision be attached to the declaration (see Sections 2.2 and 2.3 of that model).

22. It is therefore against that background that the referring court is asking the Court to interpret Article 16 of Directive 2010/24 so as to verify whether and to what extent, within the system of mutual assistance between Member States created by that directive, that provision permits the court in the requested Member State to assess the attached document consisting of a court judgment issued by a court in the applicant Member State and to assess, according to its own opinion, whether the conditions relating to the necessity and possibility of taking precautionary measures have been met, as requested by the applicant authority.

23. In the order for reference, the referring court asserts that it is inclined to admit an interpretation of Article 16 of Directive 2010/24 according to which the judgment by the court in the applicant Member State attached to the request for assistance constitutes – in terms of the procedure for validation of the precautionary measures before the court in the requested Member State – just one item of evidence to be considered by the court in the requested Member State for the purpose of examining whether the conditions for taking precautionary measures have been met on the basis of the law of that State.

24. The parties that have made observations before the Court disagree as to the interpretation of the provision under examination. The Swedish Government shares the view of the referring court and also holds that a judgment of a court in the applicant Member State authorising precautionary measures is just one item of evidence before the court in the requested Member State. However, the Estonian and Hungarian Governments assert that the court in the requested Member State is bound by the view of the court in the applicant Member State in relation to the necessity and possibility of adopting interlocutory orders, where a document stating that view is submitted to the court concerned.

25. The European Commission maintains that it is the responsibility of the applicant authority to verify whether precautionary measures are necessary, other than in exceptional cases. However, in terms of the possibility of granting those measures, the document attached to the request for assistance would merely provide an indication of the possibility of taking such measures in the applicant Member State.

26. To respond to the request for a preliminary ruling from the referring court, we must therefore establish how Article 16 of Directive 2010/24 should be interpreted.

27. In that regard, according to settled case-law, the need for the uniform application of EU law and the principle of equality require that the terms of a provision of EU law which makes no express reference to the law of the Member States for the purpose of determining its meaning and scope must normally be given an autonomous and uniform interpretation throughout the European Union, having regard not only to its wording, but also to the context of that provision and the objective pursued by the legislation in question.⁵

28. With regard, in the first place, to the wording of Article 16 of Directive 2010/24, the first subparagraph of paragraph 1 of that provision states that, at the request of the applicant authority, the requested authority will take precautionary measures to ensure recovery of a claim in two situations: where a claim or the instrument permitting enforcement in the applicant Member State is contested at the time when the request is made, or where the claim is not yet the subject of an instrument permitting enforcement in the applicant Member State.

29. The application of precautionary measures by the requested authority is then made subject to two conditions, one relating to the requested Member State and the other relating to the applicant Member State.

⁵ See, *inter alia*, judgment of 19 December 2019, *GRDF* (C-236/18, EU:C:2019:1120, paragraph 30 and the case-law cited). See also judgment of 23 January 2020, *Energiavirasto* (C-578/18, EU:C:2020:35, paragraph 24 and the case-law cited).

30. Thus, the precautionary measures may be taken ‘if allowed by [the requested State’s] national law and in accordance with its administrative practices’, and ‘in so far as precautionary measures are also possible, in a similar situation, under the national law and administrative practices of the applicant Member State’.

31. On the basis of the second subparagraph of paragraph 1 of the article in question, the document drawn up for permitting precautionary measures in the applicant Member State and relating to the claim for which mutual assistance is requested, if any, must be attached to the request for precautionary measures in the requested Member State.⁶

32. The final phrase of that second subparagraph also requires that that document will not be subject to any act of recognition, supplementing or replacement in the requested Member State.

33. Lastly, in accordance with Article 16(2) of the directive being examined, the request for precautionary measures may be accompanied by other documents issued in the applicant Member State, other than the document mentioned in the second subparagraph of paragraph 1.

34. An analysis of the text of Article 16 of Directive 2010/24 shows that although that provision does not explicitly specify the scope of the powers of the court in the requested Member State where a request for precautionary measures is lodged in the context of the mutual assistance system, it does nonetheless provide certain indications in relation to the scope of those powers.

35. On the one hand, with regard to the analysis that must be undertaken by the court in the requested Member State on the basis of its national law in the case where a request of this kind is made, that provision states that this is limited to verifying that the application of the precautionary measures requested is ‘allowed’ by its national law and in accordance with its administrative practices. This suggests that the analysis to be undertaken by that court on the basis of its own legislation appears to be limited to the *possibility* of taking precautionary measures *in its own legal system* such as those requested in the request for mutual assistance.⁷

36. On the other hand, that provision states that the document from the applicant authority accompanying any potential request and permitting the precautionary measures in the applicant Member State does not require any recognition in the requested Member State and may not be supplemented or replaced in that State. This means that the analysis contained in any accompanying document, which will generally cover the existence of the conditions for precautionary measures in the light of the national law of the applicant Member State, must not and may not be supplemented or replaced in the requested Member State. This seems to indicate that, as asserted by the Estonian and Hungarian Governments, the considerations contained in that document as to the *necessity* of taking the precautionary measures requested and the *possibility* that those measures might be taken *in the applicant Member State* are binding on the court in the requested Member State.⁸

37. The interpretation of Article 16 of Directive 2010/24 emerging from a literal analysis of that provision is also supported by a systematic analysis and by an analysis of the objectives of the directive.

38. Indeed, with regard, in the second place, to the analysis of the context of Article 16 of Directive 2010/24, that provision is included in Chapter IV of the directive, which governs ‘recovery or precautionary measures’.

⁶ On that point, it should be noted that the English and German versions of the provision in question are even more explicit than the Italian and French versions in indicating that there is an obligation for any such document to be attached. The existence of an obligation of this kind can also be inferred in those versions by the use of the phrase ‘shall be attached’.

⁷ Emphasis added.

⁸ Emphasis added.

39. In Chapter IV, Articles 10 to 15 govern various aspects of requests for recovery submitted in accordance with Directive 2010/24, Articles 16 and 17 relate to requests for mutual assistance in relation to precautionary measures, and Articles 18 to 20 cover questions common to both types of request. Under Article 17 of the directive, some of the provisions relating to requests for recovery, including in particular Article 14 on ‘Disputes’, are applicable *mutatis mutandis* for implementation of Article 16.

40. Specifically with regard to Article 14 of Directive 2010/24, the Court has already sought to clarify the scope and basis for the division of powers between the courts in the applicant and requested Member States respectively.

41. On the basis of the case-law, Article 14 of Directive 2010/24 provides for a division of powers between the courts of the applicant Member State and the requested Member State to hear disputes concerning, on the one hand, the claim, the initial instrument permitting enforcement in the applicant Member State, the uniform instrument permitting enforcement in the requested Member State or disputes concerning the validity of a notification given by a competent authority of the applicant Member State, and on the other hand, the enforcement measures taken in the requested Member State or the validity of the notification given by a competent authority of the latter.⁹

42. The Court has explained that that division of powers results from the fact that the claim and the instrument permitting enforcement are established on the basis of the law in force in the applicant Member State, while enforcement measures are taken in the requested Member State, according to its national law.¹⁰

43. The reasoning illustrated by the case-law in relation to Article 14 of Directive 2010/24 for mutual assistance for recovery, which applies *mutatis mutandis* in the context of a request for mutual assistance relating to application of precautionary measures lodged in accordance with Article 16 of the same directive, seems to be applicable, by analogy, in determining the division of powers between the court in the applicant Member State and the court in the requested Member State, where the request for mutual assistance relating to precautionary measures is accompanied (as it is in the case before the referring court) by a court judgment from the applicant State establishing that the conditions have been met, on the basis of its national law, for application of precautionary measures.

44. If we apply that reasoning, this results in a division of powers between the court in the applicant Member State and the court in the requested Member State whereby the former has powers in relation to disputes concerning the claim and the conditions allowing precautionary measures established on the basis of the laws in force in the applicant Member State, while the latter has powers in relation to the procedure for application of precautionary measures in the requested Member State, in accordance with the legal provisions and administrative practices of that State.

45. It follows on from those considerations that a concurrent analysis of the provision laid down by Article 16 of Directive 2010/24 indicates that the court in the requested Member State, such as the Estonian court in the main proceedings, is competent to rule on whether the procedure for application of precautionary measures within the territory of that Member State complies with the legal provisions and administrative practices of that State, but not on whether the substantive conditions exist for application of precautionary measures, where there is a relevant judgment issued by a court in the applicant Member State.

⁹ Judgment of 14 March 2019, *Metirato* (C-695/17, EU:C:2019:209, paragraph 33).

¹⁰ Judgment of 14 March 2019, *Metirato* (C-695/17, EU:C:2019:209, paragraph 34 and the case-law cited).

46. Furthermore, it is apparent from the case-law that Directive 2010/24, which is based on the principle of mutual trust between the Member States, does not give the competent bodies of the requested Member State the power to review the acts of the applicant Member State.¹¹ Moreover, the competent authorities in the applicant and requested Member States are in the best position to interpret their own national law and to make a decision as to the lawfulness of a relevant act.¹²

47. Furthermore, it is only in exceptional cases, which should be construed narrowly,¹³ that Directive 2010/24 allows the authorities in the requested Member State to refuse mutual assistance.

48. Thus, Article 18 of Directive 2010/24, entitled ‘Limits to the requested authority’s obligations’, lays down three specific cases in which the requested Member State may refuse mutual assistance either for requests for recovery of claims or for the taking of precautionary measures: first, where the enforcement or application of precautionary measures would, because of the situation of the debtor, create serious economic or social difficulties in the requested Member State; secondly, if more than five years have passed since the date of the act that enables enforcement of the claim or application of precautionary measures; thirdly, where the claim for which enforcement or precautionary measures is sought is less than EUR 1 500.

49. The Court has also held that a request for mutual assistance may be refused, in exceptional cases, where it is liable to be contrary to the public policy of the Member State of the requested authority.¹⁴

50. I therefore believe, in the third place, that the analysis of the objectives of Directive 2010/24 confirms the considerations set out above.

51. First, as already noted, Directive 2010/24 is based on the principle of mutual trust. The implementation of the system of mutual assistance established by that directive depends on the existence of such trust between the national authorities concerned.¹⁵

52. Furthermore, as illustrated by recital 4 of that directive, the objective of the directive was to extend the scope of mutual assistance for recovery to claims relating to taxes and duties and also, in order to cope with the increase in assistance requests, to make assistance more efficient and effective. The requirement for seamless operation of the mutual assistance system provided for in Directive 2010/24 is also mentioned in recital 6.

53. With particular reference to precautionary measures, recital 10 underlines the fact that, given the increasing mobility within the internal market, and the restrictions imposed by the Treaty or other legislation on the guarantees that can be requested from taxpayers not established within the national territory, the possibilities for requesting recovery or precautionary measures in another Member State should be extended.

54. A repeat examination by the court in the requested Member State to determine whether the conditions enabling the application of precautionary measures have been met in the light of the circumstances of the case, when that situation has already been established by a court in the applicant Member State and the corresponding judgment is attached to the request, would be contrary to the

11 See, in that regard, in relation to Article 14 of Directive 2010/24, judgment of 26 April 2018, *Donnellan* (C-34/17, EU:C:2018:282, paragraphs 41 and 44).

12 In that sense, see judgment of 14 March 2019, *Metirato* (C-695/17, EU:C:2019:209, paragraph 36).

13 See judgment of 26 April 2018, *Donnellan* (C-34/17, EU:C:2018:282, paragraph 47).

14 In that sense, see judgment of 26 April 2018, *Donnellan* (C-34/17, EU:C:2018:282, paragraph 47).

15 See judgment of 26 April 2018, *Donnellan* (C-34/17, EU:C:2018:282, paragraph 41).

abovementioned objectives and, in particular, the principle of mutual trust underpinning Directive 2010/24. Potentially making the enforcement of a request for assistance impossible or excessively difficult would also be contrary to the seamless operation and efficiency and effectiveness of the mutual assistance system provided for in that directive.

55. A repeat examination of this kind would also be contrary to both the specific requirements for expeditious treatment characterising the procedure for application of precautionary measures and the need to avoid contradictory assessments in that assistance procedure by judicial bodies in the two Member States involved with regard to the same factual circumstances.

56. The objectives of Directive 2010/24 therefore preclude an interpretation of Article 16 of that directive whereby the court in the requested Member State may reject a request for precautionary measures where the exceptional circumstances described in points 47 to 49 above do not exist, on the basis of a repeat examination of the conditions justifying their application, where those conditions have been established (as is the case in the main proceedings) by a judicial body and the corresponding judgment is attached to the request for precautionary measures.

57. On the basis of the above, Article 16 of Directive 2010/24 must be interpreted as meaning that, where a request for mutual assistance is lodged in relation to the adoption of precautionary measures accompanied by a document as described in the second subparagraph of paragraph 1 of that article, consisting of a judgment by a court in the applicant Member State, the court in the requested Member State is bound to the view of that court as to the necessity of – that is to say whether the necessary conditions are met – taking the precautionary measures requested, and the possibility of taking precautionary measures in the applicant Member State.

V. Conclusion

58. In the light of the above, I propose that the Court respond to the preliminary question referred by the Riigikohus (Supreme Court, Estonia) as follows:

Article 16 of Council Directive 2010/24/EU of 16 March 2010 concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures must be interpreted as meaning that, where a request for mutual assistance is lodged in relation to the adoption of precautionary measures accompanied by a document as described in the second subparagraph of paragraph 1 of that article, consisting of a judgment by a court in the applicant Member State, the court in the requested Member State is bound to the view of that court as to the necessity of – that is to say whether the necessary conditions are met – taking the precautionary measures requested, and the possibility of taking precautionary measures in the applicant Member State.