

If the answer to Question 4 is also in the negative:

5. Must the Directive on payment services and the EU-law principles of legal certainty and legal clarity and Article 17 of the Charter be interpreted as precluding, in the circumstances of the present case, an administrative and judicial practice ordering such amounts to be surrendered to the public purse ('confiscation') as have been received by the operator of the gaming arcade — as a result of a service effected by the network provider — from bank customers, who by means of debit card and PIN withdrew the cash loaded by the operator and/or the vouchers to play the gaming machines notwithstanding the fact that all credits correspond only to those amounts received by customers from the cash machines in cash and vouchers to play the gaming machines?

(¹) Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market, amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC (OJ 2007 L 319, p. 1).

**Reference for a preliminary ruling from High Court of Justice (Chancery Division) (United Kingdom)
made on 14 November 2016 — Air Berlin plc v Commissioners for Her Majesty's Revenue & Customs**

(Case C-573/16)

(2017/C 022/22)

Language of the case: English

Referring court

High Court of Justice (Chancery Division)

Parties to the main proceedings

Applicant: Air Berlin plc

Defendant: Commissioners for Her Majesty's Revenue & Customs

Questions referred

1. Is the levying by a member state of Stamp Duty of 1,5 % on the transfer, as set out in the reference, in the circumstances set out in the reference, contrary to one or more of:
 - 1) Article 10 or Article 11 of the First Directive (¹);
 - 2) Article 4 or Article 5 of the Second Directive (²); or
 - 3) Articles 12, 43, 48, 49 or 56 of the EC Treaty?
2. Does the answer to the first question differ in circumstances where the transfer of shares to the clearance service was required in order to facilitate a listing of the company in question on a stock exchange in that member state or another member state?
3. Does the answer to the first question or the second question differ in circumstances where the national law of the member state enabled an operator of a clearance service, where it receives approval from the taxation authority, to elect that no Stamp Duty is payable on the transfer of shares into the clearance service but that SDRT is instead charged on each subsequent sale of shares within the clearance service (at the rate of 0,5 % of the sale consideration)?

4. Does the answer to the third question differ in circumstances where the structure of the transactions chosen by the company in question means that the benefit of the election cannot be enjoyed?

⁽¹⁾ Council Directive 69/335/EEC of 17 July 1969 concerning indirect taxes on the raising of capital
OJ L 249, p. 25

⁽²⁾ Council Directive 2008/7/EC of 12 February 2008 concerning indirect taxes on the raising of capital
OJ L 46, p. 11

Action brought on 14 November 2016 — European Commission v Czech Republic

(Case C-575/16)

(2017/C 022/23)

Language of the case: Czech

Parties

Applicant: European Commission (represented by: H. Støvlbæk and K. Walkerová, acting as Agents)

Defendant: Czech Republic

Form of order sought

- declare that, by laying down a condition of nationality for the exercise of the profession of notary, the Czech Republic has failed to fulfil its obligations under Article 49 of the Treaty on the Functioning of the European Union; and
- order the Czech Republic to pay the costs.

Pleas in law and main arguments

The Commission considers that the condition of nationality laid down for the exercise of the profession of notary in the Czech legal system is discriminatory and constitutes a disproportionate restriction of the freedom of establishment. The Czech Republic has therefore failed to fulfil its obligations under Article 49 of the Treaty on the Functioning of the European Union.

The Commission considers that the functions entrusted to notaries by the legislation of the Czech Republic are not by their nature linked to the exercise of public powers, so that the condition of nationality laid down for access to the profession of notary in the Czech legal system cannot be justified by the exception laid down in Article 51 of the Treaty on the Functioning of the European Union.

**Request for a preliminary ruling from the Vrhovno sodišče Republike Slovenije (Slovenia) lodged on
17 November 2016 — C. K., H. F., A. S. v Republic of Slovenia**

(Case C-578/16)

(2017/C 022/24)

Language of the case: Slovenian

Referring court

Vrhovno sodišče Republike Slovenije

Parties to the main proceedings

Appellants: C. K., H. F., A. S.

Respondent: Republic of Slovenia