

JUDGMENT OF THE COURT (First Chamber)

18 April 2024 (\*)

(Reference for a preliminary ruling – Prevention of the use of the financial system for the purposes of money laundering or terrorist financing – Directive (EU) 2015/849 – Scope – Obligated entity – Article 3(7)(c) – Concept of ‘trust or company service provider’ – Provision of a registered office – Owner of immovable property who has entered into leases with legal persons – Registration of the registered office of such legal persons in that immovable property)

In Case C-22/23,

REQUEST for a preliminary ruling under Article 267 TFEU from the administratīvā rajona tiesa (District Administrative Court, Latvia), made by decision of 18 January 2023, received at the Court on 19 January 2023, in the proceedings

**‘Citadeles nekustamie īpašumi’ SIA**

v

**Valsts ieņēmumu dienests,**

THE COURT (First Chamber),

composed of A. Arabadjiev, President of the Chamber, T. von Danwitz, P.G. Xuereb, A. Kumin (Rapporteur) and I. Ziemele, Judges,

Advocate General: M. Szpunar,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

- ‘Citadeles nekustamie īpašumi’ SIA, by S. Bokta-Strautmane, advokāte,
- the Valsts ieņēmumu dienests, by I. Jaunzeme, ģenerāldirektore,
- the European Commission, by G. Goddin, I. Rubene and G. von Rintelen, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 11 January 2024,

gives the following

**Judgment**

1 This request for a preliminary ruling concerns the interpretation of Article 3(7)(c) of Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ 2015 L 141, p. 73), as amended by Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 (OJ 2018 L 156, p. 43) (‘Directive 2015/849’).

2 The request has been made in proceedings between ‘Citadeles nekustamie īpašumi’ SIA (‘Citadele’) and the Valsts ieņēmumu dienests (State Tax Authority, Latvia) (‘the VID’) concerning a

fine imposed on Citadele for infringements of the national provisions on prevention of money laundering and terrorist financing.

## **Legal context**

### ***European Union law***

#### *Directive 2015/849*

3 According to recital 1 of Directive 2015/849:

‘Flows of illicit money can damage the integrity, stability and reputation of the financial sector, and threaten the internal market of the [European] Union as well as international development. Money laundering, terrorism financing and organised crime remain significant problems which should be addressed at Union level. In addition to further developing the criminal law approach at Union level, targeted and proportionate prevention of the use of the financial system for the purposes of money laundering and terrorist financing is indispensable and can produce complementary results.’

4 Article 1(1) of the Directive provides:

‘This Directive aims to prevent the use of the Union’s financial system for the purposes of money laundering and terrorist financing.’

5 Article 2 of the Directive provides:

‘1. This Directive shall apply to the following obliged entities:

...

(3) the following natural or legal persons acting in the exercise of their professional activities:

...

(b) notaries and other independent legal professionals, where they participate, whether by acting on behalf of and for their client in any financial or real estate transaction, or by assisting in the planning or carrying out of transactions for their client concerning the:

(i) buying and selling of real property or business entities;

...

(c) trust or company service providers not already covered under point (a) or (b);

(d) estate agents including when acting as intermediaries in the letting of immovable property, but only in relation to transactions for which the monthly rent amounts to EUR 10 000 or more;

...

7. In assessing the risk of money laundering or terrorist financing for the purposes of this Article, Member States shall pay particular attention to any financial activity which is considered to be particularly likely, by its nature, to be used or abused for the purposes of money laundering or terrorist financing.

...’

6 Article 3 of Directive 2015/849 states:

‘For the purposes of this Directive, the following definitions apply:

...

(7) “trust or company service provider” means any person that, by way of its business, provides any of the following services to third parties:

- (a) the formation of companies or other legal persons;
- (b) acting as, or arranging for another person to act as, a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons;
- (c) providing a registered office, business address, correspondence or administrative address and other related services for a company, a partnership or any other legal person or arrangement;
- (d) acting as, or arranging for another person to act as, a trustee of an express trust or a similar legal arrangement;
- (e) acting as, or arranging for another person to act as, a nominee shareholder for another person other than a company listed on a regulated market that is subject to disclosure requirements in accordance with Union law or subject to equivalent international standards;

...’

7 Article 4 of that directive is worded as follows:

‘1. Member States shall, in accordance with the risk-based approach, ensure that the scope of this Directive is extended in whole or in part to professions and to categories of undertakings, other than the obliged entities referred to in Article 2(1), which engage in activities which are particularly likely to be used for the purposes of money laundering or terrorist financing.

2. Where a Member State extends the scope of this Directive to professions or to categories of undertaking other than those referred to in Article 2(1), it shall inform the [European] Commission thereof.’

8 Article 5 of the Directive provides:

‘Member States may adopt or retain in force stricter provisions in the field covered by this Directive to prevent money laundering and terrorist financing, within the limits of Union law.’

*Directive (EU) 2017/1132*

9 According to Article 4 of Directive (EU) 2017/1132 of the European Parliament and of the Council of 14 June 2017 relating to certain aspects of company law (OJ 2017 L 169, p. 46):

‘The following information at least shall appear in either the statutes or the instrument of incorporation or a separate document published in accordance with the procedure laid down in the laws of each Member State in accordance with Article 16:

- (a) the registered office;

...’

#### **Latvian law**

10 The Noziedzīgi iegūtu līdzekļu legalizācijas un terorisma un proliferācijas finansēšanas novēršanas likums (Law on the prevention of money laundering and the financing of terrorism and

proliferation) of 17 July 2008 (*Latvijas Vēstnesis*, 2008, No 116), was amended for the purpose, in particular, of transposing Directive 2015/849 into Latvian law.

11 That law, in the version applicable to the facts in the main proceedings ('the Law on prevention') states in Article 1(1) thereof:

'For the purposes of this Law, the following definitions shall apply:

...

(10) "providers of services relating to the establishment and operation of legal arrangements or legal persons": a natural or legal person who has a business relationship with the customer and provides the customer with the following services:

...

(c) the provision, to legal arrangements or legal persons, of a registered office, a postal address, an address for carrying out transactions and other similar services.

...'

12 Article 3(1) of the Law on prevention provides:

'Persons who carry on the following business or professional activities shall be obliged entities:

...

(5) providers of services for the establishment and operation of legal arrangements or legal persons;

...'

### **The dispute in the main proceedings and the questions referred for a preliminary ruling**

13 Citadele is a commercial company whose business consists, in particular, in the purchase and in the sale of real estate for its own account and in the letting and management of that property. Between September 2021 and February 2022, it was the subject of an anti-money laundering inspection carried out by the competent entity of the VID.

14 In its inspection report, that entity took the view that, by letting premises situated in a self-owned building to legal persons and to legal arrangements which had registered their registered office in those premises, Citadele had to be regarded as carrying on the activity of a 'provider of services for the establishment and operation of legal arrangements or legal persons' within the meaning of Article 1(1)(10) of the Law on prevention. It is alleged that Citadele did not declare that activity to the VID or, consequently, comply with the resulting obligations under that law.

15 Consequently, by decision of 28 March 2022, the competent entity of the VID imposed a fine of EUR 1 000 on Citadele.

16 Citadele appealed against that decision to the Director-General of the VID, who upheld the appeal by decision of 15 June 2022.

17 The Director-General of the VID relied on the fact that Citadele's business constituted a supply of services for the establishment and operation of legal arrangements or legal persons, since, under the leases at issue, that company permitted the lessees to register their registered office at the leased

premises. Accordingly, it had to be regarded as an obliged entity in accordance with Article 3 of the Law on prevention.

18 By application of 15 July 2022, Citadele brought an action before the administratīvā rajona tiesa (District Administrative Court, Latvia), the referring court, for annulment of the decision of 15 June 2022 on the ground that it does not have the status of an obliged entity and that it is therefore not required to comply with the legal requirements relating to that classification.

19 More specifically, that company maintains that, in the context of its business, it engages in the management and letting of self-owned property, without providing the lessees with other services. It states that the leases at issue in the main proceedings merely provide, among the rights granted to tenants, that they may register their registered office in the properties leased, and the agreed rent does not depend on whether or not the lessee has registered its registered office there.

20 The referring court states that the definition of the concept of ‘providers of services relating to the establishment and operation of legal arrangements or legal persons’, set out in Article 1(1)(10) of the Law on prevention, corresponds to that of the concept of ‘trust or company service provider’ in Article 3(7) of Directive 2015/849.

21 However, according to the referring court, neither that provision of Directive 2015/849 nor any other provision thereof specifies whether the concept of a ‘trust or company service provider’ must be interpreted as meaning that it is a discrete service, which does not arise from a transaction consisting in the letting of self-owned real estate or which is not linked to such a transaction.

22 The referring court doubts, however, whether a lessor of real estate can be regarded as a ‘company service provider’, within the meaning of Article 3(7) of Directive 2015/849.

23 In that regard, that court states that, under national law, in order for a legal person or legal arrangement to be entered in the commercial register, it must inform the competent authority of its registered office, which is usually also the place where the business is carried on. It adds that although, until 31 July 2021, registration of a registered office in leased premises required evidence to be submitted of the property owner’s consent thereto, such consent has no longer been required since 1 August 2021. Since the leases at issue in the main proceedings were concluded before that date, the consent given by Citadele in those contracts could be regarded merely as consent given with a view to satisfying the requirements laid down in national law, and not as a discrete service.

24 Furthermore, Directive 2015/849 applies, as regards real estate transactions, to notaries and other independent legal professionals, as well as to real estate agents. By contrast, company service providers are regarded as separate entities under that directive, with no links to those transactions.

25 However, the referring court points out that, in accordance with Article 2(7) of Directive 2015/849, in assessing the risk of money laundering or terrorist financing, Member States are to pay particular attention to any financial activity which is considered to be particularly likely, by its nature, to be used or abused for the purposes of money laundering or terrorist financing.

26 Since a Member State may thus construe broadly the activities carried out by individuals which are likely to entail the achievement of an unlawful objective, that court considers that it is also possible that a lessor of real estate must be regarded as a ‘trust or company service provider’ in cases where that lessor lets self-owned real estate to a lessee which registers its registered office at that property and carries on a business there, in order to minimise the likelihood of the latter being involved in money laundering or terrorist financing operations.

27 Lastly, the question also arises whether all individuals who let self-owned real estate should be regarded as a ‘trust or company service provider’, within the meaning of Article 3(7) of Directive 2015/849, including a natural person, which implies that that person is subject to the same requirements as a legal person or legal arrangement.

28 In those circumstances, the administratīvā rajona tiesa (District Administrative Court) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

‘(1) Is the concept of “company service provider” set out in Article 3(7)(c) of Directive 2015/849 to be interpreted as referring to a discrete service which does not arise from a transaction involving the letting of self-owned real estate and is not linked to such a transaction, irrespective of whether or not the lessor has consented to the lessee registering its registered office at the leased property and carrying out transactions there?’

(2) If the answer to the first question is in the negative, is the concept of “company service provider” set out in Article 3(7)(c) of Directive 2015/849 to be interpreted as meaning that, where a natural person lets a property, that person should be subject to the same requirements as a legal person or legal arrangement, regardless of the factual circumstances, for example, the number of properties which the natural person owns and lets, whether the letting of the property is unrelated to the business, or other circumstances?’

### **Consideration of the questions referred**

#### ***The first question***

29 By its first question, the referring court asks, in essence, whether Article 3(7)(c) of Directive 2015/849 must be interpreted as meaning that the leasing owner of immovable property in which the lessee registers, with the consent of the leasing owner, its registered office and carries out transactions falls within the scope of the concept of ‘trust or company service provider’ within the meaning of that provision.

30 According to settled case-law, in interpreting a provision of EU law it is necessary to consider not only its wording but also the context in which it occurs and the objectives pursued by the rules of which it forms part (judgment of 17 November 2022, *Rodl & Partner*, C-562/20, EU:C:2022:883, paragraph 81 and the case-law cited).

31 The main aim of Directive 2015/849, as is apparent from its heading and from Article 1(1) and (2) thereof, is the prevention of the use of the financial system for the purposes of money laundering or terrorist financing (judgment of 17 November 2022, *Rodl & Partner*, C-562/20, EU:C:2022:883, paragraph 33 and the case-law cited).

32 More specifically, the provisions of Directive 2015/849, which are preventive in nature, seek to establish, taking a risk-based approach, a body of preventive and dissuasive measures to combat money laundering and terrorist financing effectively, in order to prevent, as is apparent from recital 1 of that directive, flows of illicit money from being able to damage the integrity, stability and reputation of the financial sector and threaten the internal market of the European Union as well as international development (judgment of 17 November 2022, *Rodl & Partner*, C-562/20, EU:C:2022:883, paragraph 34 and the case-law cited).

33 In that regard, Article 2 of Directive 2015/849 lists the entities to which, by reason of their participation in the carrying out of a transaction or a financial activity, that directive applies.

34 That directive thus applies, *inter alia*, in accordance with Article 2(1)(3)(c) thereof, to trust or company service providers not already covered under Article 2(1)(3)(a) or (b) thereof.

35 According to Article 3(7)(c) of Directive 2015/849, for the purposes of that directive, ‘trust or company service provider’ means any person who provides ‘a registered office, business address, correspondence or administrative address and other related services for a company, a partnership or any other legal person or arrangement’, services which must be provided by way of business and to third parties.

36 In that regard, it should be noted that Directive 2015/849 does not contain any definition of the service consisting of providing ‘a registered office, business address, correspondence or administrative address’ referred to in that provision.

37 The concept of a ‘registered office’ usually refers to the seat of a legal person as defined in its statutes or in any other equivalent document. The formation of a legal person requires, as a general rule, such a seat to be fixed, as illustrated, by way of example, in the case of legal persons falling within the scope of Article 4(a) of Directive 2017/1132. That provision states that information on the registered office must appear in either the statutes of the legal person in question, or in the instrument of incorporation or a separate document which has been published.

38 In addition, in so far as the fixing of the registered office requires not only a locality but also a precise address, as appears to be the case in the applicable Latvian law in the present case, the registered office thus indicated provides, as the Advocate General observed in point 36 of his Opinion, a point of contact for professional and administrative purposes such as a business address, correspondence or administrative address, which may, in particular, be used for the delivery of correspondence.

39 The service consisting of providing a ‘registered office, business address, correspondence or administrative address’ within the meaning of Article 3(7)(c) of Directive 2015/849 therefore involves, as the Advocate General also observed in points 37 and 38 of his Opinion, making available such a point of contact, which is distinct from a service consisting of the mere letting of real estate.

40 First, letting real estate is in principle limited to an undertaking to make that property available in exchange for the payment of rent. Second, recourse to the service consisting in providing a registered office or a business, correspondence or administrative address in no way presupposes the conclusion of a lease relating to immovable property and involves, as a general rule, the provision of additional services, such as the handling of administrative documents.

41 The use of the conjunction ‘and’ in the wording of Article 3(7)(c) of Directive 2015/849, which refers to the provision of ‘other related services’, confirms the interpretation that simply making available real estate, even where it is used to have a ‘registered office, business address, correspondence or administrative address’, is not sufficient for the purposes of classifying the lessor as a ‘trust or company service provider’ within the meaning of that provision.

42 Furthermore, the mere fact that the lessor agrees, in the lease, that the lessee may register its registered office in the immovable property concerned cannot be regarded as a ‘related service’, within the meaning of that provision.

43 As the Commission observed in its written observations, in the context of a lease relating to an immovable property, the right to use the address of that property as the registered office is simply a connected right arising from the primary service provided. The same applies to the right to use that address as a business, correspondence or administrative address. Moreover, the inclusion in a lease



of a clause expressing the lessor's consent to the use of that property for that specific purpose may be explained, as in the present case, by a legal obligation to prove such consent.

44 As regards the context of which Article 3(7)(c) of Directive 2015/849 forms part, as has been pointed out in paragraph 34 of the present judgment, that directive applies, inter alia, in accordance with Article 2(1)(3)(c) thereof, to trust or company service providers as obliged entities.

45 As follows from Article 2(1)(3)(b)(i) and (d) of Directive 2015/849, obliged entities also include notaries and other independent legal professionals, where they participate in a real estate transaction or in the planning or carrying out, for their client, of transactions concerning the buying and selling of real property or business entities, as well as estate agents, including when acting as intermediaries in the letting of immovable property.

46 Unlike the latter types of obliged entities, Directive 2015/849 does not link the status of 'trust or company service provider' to real estate transactions. In addition, the EU legislature refrained from including, generally or even under certain conditions, lessors of immovable property among the obliged entities referred to in Article 2(1) of that directive.

47 Furthermore, nor do the other services provided by a 'trust or company service provider' listed in Article 3(7)(a) to (e) of that directive relate to real estate transactions.

48 It must be added, however, that Directive 2015/849 carries out only a minimum harmonisation, as Article 5 thereof allows Member States to adopt or retain in force stricter provisions where those provisions seek to strengthen the fight against money laundering and terrorist financing, within the limits of EU law (judgment of 17 November 2022, *Rodl & Partner*, C-562/20, EU:C:2022:883, paragraph 46).

49 Moreover, according to Article 4(1) of Directive 2015/849, it is for the Member States to ensure, in accordance with the risk-based approach, that the scope of that directive is extended in whole or in part to professions and to categories of undertakings, other than the obliged entities referred to in Article 2(1) of that directive, which engage in activities which are particularly likely to be used for the purposes of money laundering or terrorist financing. Article 4(2) of Directive 2015/849 provides, in that context, that, where a Member State extends the scope of that directive to professions or to categories of undertakings other than those referred to in Article 2(1) thereof, it is to inform the Commission of that extension of scope.

50 In the present case, in the light of the information available to the Court, it appears that, in the case of leasing owners of immovable property in which lessees register, with the consent of such owners, a registered office and carry out transactions, the Latvian legislature has neither adopted stricter provisions within the meaning of Article 5 of Directive 2015/849 nor extended the scope of that directive on the basis of Article 4(1) thereof. It is for the referring court to verify whether that is actually the case.

51 In the light of all the foregoing considerations, the answer to the first question is that Article 3(7)(c) of Directive 2015/849 must be interpreted as meaning that a leasing owner of real estate in which a lessee registers, with the consent of the leasing owner, its registered office and carries out transactions does not, by that fact alone, fall within the scope of the concept of a 'trust or company service provider', within the meaning of that provision.

### ***The second question***

52 Given the answer to the first question, there is no need to address the second question.



## **Costs**

53 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the referring court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (First Chamber) hereby rules:

**Article 3(7)(c) of Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC, as amended by Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018,**

**must be interpreted as meaning that the leasing owner of real estate in which the lessee registers, with the consent of the leasing owner, its registered office and carries out transactions does not, by that fact alone, fall within the scope of the concept of a ‘trust or company service provider’, within the meaning of that provision.**

[Signatures]

---

\* Language of the case: Latvian.