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No confiscation and utilization of damaged oil tanker and its cargo in the Baltic Sea

In two separate but substantively related appeal proceedings for preliminary legal protection, the Supreme Tax Court held that customs authorities are not permitted to confiscate and to utilize the oil tanker “Eventin” for the time being in light of the European Union (EU) sanctions against Russia. The court sees “reasonable doubts” as to the legitimacy of the proposed measures. It is not clear whether, despite EU sanctions, the ship and its cargo are allowed to enter and leave EU territory due to an exception applicable for emergencies.

The situation

The wrecked “Eventin” has been off the coast of Rügen for almost a year. The EU considers the 20-year-old ship, which is loaded with around 100,000 tons of oil, to be part of the so-called shadow fleet that Russia uses to circumvent sanctions.

In January, all systems on board the “Eventin” failed. For hours, the ship drifted helplessly in the Baltic Sea off the coast of Mecklenburg Western Pomerania. Rescue teams finally managed to establish tow connections to the tanker at sea.

Facts of the case

The case in dispute concerns the confiscation and utilization of the tanker and its cargo as decreed by the authorities. The owner of the ship had appealed against a corresponding order from the Stralsund Main Customs Office (HZA) which was provisionally upheld by the Greifswald Tax Court. It suspended the confiscation and utilization and granted interim relief in the form of a suspension from execution until a decision had been made in the main proceedings.

More details

While the cargo was already considered sanctioned goods under Article 3i(1) of Regulation (EU) No. 833/2014 (EU Sanctions Regulation against Russia), the ship itself was only added to Annex XLII to Article 3s of this Regulation after the shipwreck occurred. This annex lists those ships which – referred to in public reports as the “shadow fleet” – are suspected of being used to circumvent the sanctions against Russia but also for espionage and sabotage operations in the Baltic Sea.

Article 3i (1) of EU Regulation 833/2014, as amended, generally prohibits the purchase, import, or transfer (direct/indirect) of specific goods listed in Annex XXI (like certain chemicals, fertilizers, wood, cement, etc.) if they originate in Russia or are exported from Russia, with specific volume quotas sometimes applying to certain items. It targets goods critical for Russian industries, aiming to cut revenue streams, and requires EU entities to ensure compliance including the prohibition of re-exports to Russia for some goods.

In light of these regulations, the competent Main Customs Office (HZA) initially ordered the seizure of the ship and its oil cargo. Later, based on Article 198(1)(b)(iv) of the Union Customs Code in conjunction with Section 13(1) of the Customs Administration Act, it ordered the confiscation and sale of the cargo and ship.

The owners and charterers then appealed to the lower tax court. As part of measures for interim relief (suspension of enforcement), the court held that the orders for seizure and sale of the ship and cargo could not be executed for the time being.

Decision of the Supreme Tax Court

The Supreme Tax Court rejected the appeals lodged by the Main Customs Office against this decision on grounds of reasonable doubts as to the legitimacy of the confiscation measures and granted the taxpayer interim relief in the form of a suspension from execution.

As far as the ship is concerned, it is legally uncertain whether the ‘transfer into the Union’ prohibited under the EU Sanctions Regulation also applies if a ship is unable to maneuver and drifts into EU waters involuntarily. It is also doubtful whether the regulation for sanctions also covers “the transfer into the Union” even though the relevant provision - unlike other embargo provisions - does not mention export. The Supreme Tax Court also points out that aspects of international law should be taken into account in favor of the tanker including the right to a port of refuge and the right to peaceful passage set out in Articles 17–18 of the United Nations Convention on the Law of the Sea (UNCLOS).

Finally, with regard to the ship's cargo, it has not yet been clarified whether the exception contained in Article 3s (3) of Regulation (EU) No. 833/2014, which allows listed ships to call at a safe port in emergency situations, would also cover the return to sea of a previously damaged and subsequently listed ship together with its cargo in accordance with the purpose of the regulation. Due to these unresolved issues, the confiscation and utilization (disposal) of the ship and its cargo had to be suspended in the process of granting interim relief in favor of the ship owners/charterers.

Source:

Supreme Tax Court, decisions of 26 November 2025 in cases VII B 81/25 (AdV) relating to oil tankers and VII B 80/25 (AdV) concerning oil cargo, both published on 11 December 2025.

Schlagwörter

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