

Operative part of the order

Articles 16, 184, 186 to 188 and 192 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as precluding national rules and practice requiring a taxable person, whose identification for value added tax (VAT) purposes was revoked for a given period on account of there being no taxable transactions shown in that person's VAT returns filed during six consecutive months, to adjust the input VAT deducted in relation to the purchase of capital goods without that taxable person being entitled to adduce evidence that the substantive conditions for benefitting from the right to deduct are satisfied, on the ground that there is an irrebuttable presumption that the taxable person used those goods for purposes other than economic activities.

⁽¹⁾ OJ C 191, 10.5.2022.

Request for a preliminary ruling from the Judecătoria Lehliu-Gară (Romania) lodged on 29 March 2022 — Criminal proceedings against KN, LY, OC, DW

(Case C-230/22)

(2022/C 368/15)

Language of the case: Romanian

Referring court

Judecătoria Lehliu-Gară

Parties to the main proceedings

KN, LY, OC, DW

Question referred

Does Article 2 of the Treaty on European Union (concerning respect for the principles of the rule of law and respect for human rights), in conjunction with Article 48(2) of the Charter of Fundamental Rights of the European Union, concerning the rights of the defence, and Article 49 of the Charter of Fundamental Rights of the European Union, concerning the principle of the legality of criminal offences and penalties, preclude national legislation which makes it a criminal offence to perform an act in breach of any law whatsoever, without expressly specifying the laws or legal provisions the breach of which gives rise to criminal liability?

Request for a preliminary ruling from the Curtea de Apel București (Romania) lodged on 6 May 2022 — criminal proceedings against C.J.

(Case C-305/22)

(2022/C 368/16)

Language of the case: Romanian

Referring court

Curtea de Apel București

Person subject to the European arrest warrant

C.J.

Questions referred

1. Must the provisions of Article 25 of Framework Decision 2008/909/JHA ⁽¹⁾ be interpreted as meaning that the judicial authority executing a European [arrest] warrant, if it intends to apply Article 4(6) of Framework Decision 2002/584/JHA ⁽²⁾ for the purposes of recognising the judgment passing sentence, is required to request the [forwarding] of the judgment and the certificate issued pursuant to Framework Decision 2008/909/JHA and to obtain the consent of the sentencing State pursuant to Article 4(2) of Framework Decision 2008/909/JHA?

2. Must the provisions of Article 4(6) of Framework Decision 2002/584/JHA, read in conjunction with Articles 25 and 4(2) of Framework Decision 2008/909/JHA, be interpreted as meaning that the refusal to execute a European arrest warrant issued for the purposes of the execution of a custodial sentence and recognition of the judgment passing sentence, without its effective execution by imprisonment of the sentenced person following a pardon and suspension of the sentence, in accordance with the law of the executing State, and without obtaining the consent of the sentencing State in the context of the recognition procedure, [cause] the sentencing State to forfeit its right to enforce the sentence under Article 22(1) of Framework Decision 2008/909/JHA?
3. Must Article 8(1)(c) of Framework Decision 2002/584/JHA be interpreted as meaning that a judgment imposing a custodial sentence on the basis of which a European arrest warrant has been issued, the execution of which has been refused under Article 4(6) [of that Framework Decision], with recognition of the judgment passing sentence but without its effective execution by imprisonment of the sentenced person following a pardon and suspension of the sentence, in accordance with the law of the executing State, and without obtaining the consent of the sentencing State in the context of the recognition procedure, is no longer enforceable?
4. Must the provisions of Article 4(5) of Framework Decision 2002/584/JHA be interpreted as meaning that a judgment refusing to execute a European arrest warrant issued for the purposes of the execution of a custodial sentence and recognition of the judgment passing sentence pursuant to Article 4(6) of Framework Decision 2002/584/JHA, but without its effective execution by imprisonment of the sentenced person following a pardon and suspension of the sentence, in accordance with the law of the executing State (EU Member State), and without obtaining the consent of the sentencing State in the context of the recognition procedure, amounts to a judgment 'by a third State in respect of the same acts'?

If Question 4 is answered in the affirmative:

5. Must the provisions of Article 4(5) of Framework Decision 2002/584/JHA be interpreted as meaning that a judgment refusing to execute a European arrest warrant issued for the purposes of the execution of a custodial sentence and recognition of the judgment passing sentence pursuant to Article 4(6) of Framework Decision 2002/584/JHA, with the suspension of the sentence in accordance with the law of the executing State, amounts to a sentence that 'is currently being served' where supervision of the sentenced person has not yet commenced?

(¹) Council Framework Decision 2008/909/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union (OJ 2008 L 327, p. 27).

(²) Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (OJ 2002 L 190, p. 1).

**Request for a preliminary ruling from the Audiencia Provincial de Pontevedra (Spain) lodged on
25 May 2022 — Maersk A/S v Allianz Seguros y Reaseguros, S.A.**

(Case C-345/22)

(2022/C 368/17)

Language of the case: Spanish

Referring court

Audiencia Provincial de Pontevedra

Parties to the main proceedings

Appellant: Maersk A/S

Respondent: Allianz Seguros y Reaseguros, S.A.

Questions referred

1. Does the provision in Article 25 of Regulation 1215/2012 (¹) which establishes that the automatic nullity of the agreement conferring jurisdiction must be examined in accordance with the law of the Member State on which the parties have conferred jurisdiction also apply — in a situation such as that in the main proceedings — to the question of the validity of the application of the clause to a third party who is not a party to the contract containing the clause in question?