

- in the context of the examination as to whether the telecommunications at issue must be excluded as evidence, to disapply a provision of national law (Article 105(2) of the NPK), or to interpret it in conformity with EU law, in so far as it requires compliance with the national procedural rules (in this case, Article 174(4) of the NPK and Article 15(2) of the ZSRS), and to apply instead the rule laid down by the Court of Justice in the judgment of 16 February 2023 in Case C-349/21?

(<sup>1</sup>) Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ 2002 L 201, p. 37).

(<sup>2</sup>) ECLI:EU:C:2023:102.

**Request for a preliminary ruling from the Hof van Beroep te Gent (Belgium) lodged on 18 April 2023 — Belgian State / Federale Overheidsdienst Financiën v L BV**

(Case C-243/23, Drebers (<sup>1</sup>))

(2023/C 261/15)

*Language of the case: Dutch*

**Referring court**

Hof van Beroep te Gent

**Parties to the main proceedings**

*Applicants:* Belgian State / Federale Overheidsdienst Financiën

*Defendant:* L BV

**Questions referred**

1. Do Articles 187 and 189 of Council Directive 2006/112/EC (<sup>2</sup>) of 28 November 2006 on the common system of value added tax preclude legislation such as that at issue in the main proceedings (namely Article 48(2) and Article 49 WBTW, read in conjunction with Article 9 KB No 3 of 10 December 1969, relating to the deduction facility for the application of value added tax), according to which the extended adjustment period (of 15 years) in the case of the renovation of an existing building is applied only if, after completion of the works, on the basis of the criteria under national law, there is a 'new building' within the meaning of Article 12 of the aforementioned Directive, whereas the useful economic life of a substantially renovated building (which, however, on the basis of the administrative criteria under national law does not qualify as a 'new building' within the meaning of the aforementioned Article 12) is identical to the useful economic life of a new building, which is considerably longer than the period of five years referred to in the aforementioned Article 187, which is shown, inter alia, by the fact that the works carried out are depreciated over a period of 33 years, which is also the period over which new buildings are depreciated?
2. Does Article 187 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax have direct effect, so that a taxable person who has carried out works on a building without those works leading to the renovated building being classified as a 'new building' within the meaning of Article 12 of that directive on the basis of criteria under national law, but where those works have a useful economic life which is identical to that of such new buildings to which a 15-year adjustment period does apply, may rely on the application of the 15-year adjustment period?

(<sup>1</sup>) The name of the present case is a fictitious name. It does not correspond to the real name of any party to the proceedings.

(<sup>2</sup>) OJ 2006 L 347, p. 1.