— the presentation of the overstickered product is not such as to be liable to damage the reputation of the trade mark and of its proprietor; thus, the label must not be defective, of poor quality, or untidy; and

— the importer gives notice to the trade mark proprietor before the overstickered product is placed on the market, and, on demand, provides him with a specimen of that product.

([1]) Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark (OJ L 78, 24.3.2009, p. 1).

Request for a preliminary ruling from the Oberster Gerichtshof (Austria) lodged on 19 December 2016 — Peter Valach and Others v Waldviertler Sparkasse Bank AG and Others

(Case C-649/16)

(2017/C 104/40)

Language of the case: German

Referring court

Oberster Gerichtshof

Parties to the main proceedings

Applicants: Peter Valach, Alena Valachová, Europa SC ZV II a.s., Europa SC LV a.s., VAV Parking a.s., Europa SC BB a.s., Byty A s.r.o.

Defendants: Waldviertler Sparkasse Bank AG, Československá obchodná banka a.s., City of Banská Bystrica

Question referred

Is Article 1(2)(b) of Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters ([1]) to be interpreted as meaning that an action brought by the holders of shares in an insolvent company — as is the case of the first and second applicants — and by project companies in a business relationship with the insolvent company — as is the case of the third to seventh applicants — which is founded on a claim in tort for damages against members of a creditors' committee in respect of voting impropriety regarding a restructuring plan in connection with insolvency proceedings concerns insolvency within the meaning of Article 1(2)(b) of Regulation No 1215/2012 and is for that reason excluded from the scope *ratione materiae* of that regulation?

([1]) OJ 2012 L 351, p. 1.

Request for a preliminary ruling from the Curtea de Apel Alba Iulia (Romania) lodged on 21 December 2016 — Lucreţiu Hadrian Vădan v Agenţia Naţională de Administrare Fiscală — Direcţia Generală de Soluţionare a Contestaţiilor and Direcţia Generală Regională a Finanţelor Publice Braşov — Administraţia Judeţeană a Finanţelor Publice Alba

(Case C-664/16)

(2017/C 104/41)

Language of the case: Romanian

Referring court

Curtea de Apel Alba Iulia

Parties to the main proceedings

Appellant: Lucreţiu Hadrian Vădan

Respondents: Agenţia Naţională de Administrare Fiscală — Direcţia Generală de Soluţionare a Contestaţiilor and Direcţia Generală Regională a Finanţelor Publice Braşov — Administraţia Judeţeană a Finanţelor Publice Alba

Questions referred

1. On a proper construction of Directive 2006/112 ([1]) in general, and Articles 167, 168, 178, 179 and 273 in particular, and the principles of proportionality and neutrality, may a taxable person who satisfies the substantive requirements for the deduction of VAT exercise his right to deduct in a situation where, in a particular context such as that of the dispute in the main proceedings, he is unable to provide evidence, by way of invoices, of input tax for the supply of goods and provision of services?

2. If the first question is answered in the affirmative, on a proper construction of Directive 2006/112 and the principles of proportionality and neutrality, is an indirect assessment method (assessment by means of a court-commissioned expert report), employed by an independent expert and based on the amount of work/labour involved in the construction of buildings as stated in the report, an acceptable and appropriate measure for determining the extent of the right to deduct in a situation where the supply of goods (building material) and the provision of services (labour relating to the construction of buildings) originate from taxable persons liable to VAT?

([1]) Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1).

Request for a preliminary ruling from the Verwaltungsgericht Minden (Germany) lodged on 29 December 2016 — Tsegezab Mengesteab v Bundesrepublik Deutschland

(Case C-670/16)

(2017/C 104/42)

Language of the case: German

Referring court

Verwaltungsgericht Minden

Parties to the main proceedings

Applicant: Tsegezab Mengesteab

Defendant: Bundesrepublik Deutschland

Questions referred

1. May an asylum applicant claim a transfer of responsibility to the requesting Member State by reason of the expiry of the period for making the take charge request (third subparagraph of Article 21(1) of Regulation No 604/2013 ([1]))?

2. If Question 1 is to be answered in the affirmative: may an asylum applicant claim a transfer of responsibility even if the requested Member State is still willing to take charge of him?

3. If Question 2 is to be answered in the negative: can it be inferred from the express consent or the deemed consent (Article 22(7) of Regulation No 604/2013) of the requested Member State that the requested Member State is still willing to take charge of the asylum applicant?

4. Can the two-month period provided for in the second subparagraph of Article 21(1) of Regulation No 604/2013 end after the expiry of the three-month period provided for in the first subparagraph of Article 21(1) of Regulation No 604/2013 if the requesting Member State allows more than one month to pass after the beginning of the three-month period before it makes a request to the Eurodac database?

5. Is an application for international protection deemed to have been lodged for the purposes of Article 20(2) of Regulation No 604/2013 when a certificate of registration as an asylum seeker is first issued or only when a formal asylum application is recorded? In particular:

   (a) Is the certificate of registration as an asylum seeker a form or a report within the meaning of Article 20(2) of Regulation No 604/2013?