

**Request for a preliminary ruling from the Naczelny Sąd Administracyjny (Poland) lodged on
28 January 2020 — UAB ‘P’ v Dyrektor Izby Skarbowej w Białymstoku**

(Case C-48/20)

(2020/C 191/08)

Language of the case: Polish

Referring court

Naczelny Sąd Administracyjny

Parties to the main proceedings

Applicant: UAB ‘P’

Defendant: Dyrektor Izby Skarbowej w Białymstoku

Question referred

Must Article 203 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ... ⁽¹⁾ [as amended,] and the principle of proportionality be interpreted as precluding the application, in a situation such as that in the main proceedings, of a national provision such as Article 108(1) of the Ustawa z dnia 11 marca 2004 r. o podatku od towarów i usług (Law of 11 March 2004 on [the] tax on goods and services) ... ⁽²⁾ to invoices with VAT incorrectly indicated that were issued by a taxable person acting in good faith, if:

- the taxable person's actions did not involve tax fraud, but resulted from an erroneous interpretation of the law by the parties to the transaction, based on an interpretation given by the tax authorities and a common practice in that respect at the time of the transaction, which incorrectly assumed that the issuer of the invoice was supplying goods when in fact it was providing a VAT-exempt financial intermediation service; and
- the recipient of the invoice with the VAT incorrectly indicated would have been entitled to claim a VAT refund if the transaction had been correctly invoiced by a taxable person who was actually supplying the recipient with goods?

⁽¹⁾ OJ 2006 L 347, p. 1.

⁽²⁾ Journal of Laws (Dziennik Ustaw) of 2011, No 177, item 1054, as amended.

**Request for a preliminary ruling from the Sąd Dyscyplinarny Izby Adwokackiej w Warszawie
(Poland) lodged on 31 January 2020 — Ministerstwo Sprawiedliwości v R.G.**

(Case C-55/20)

(2020/C 191/09)

Language of the case: Polish

Referring court

Sąd Dyscyplinarny Izby Adwokackiej w Warszawie

Parties to the main proceedings

Appellant: Ministerstwo Sprawiedliwości

Other party to the proceedings: R.G.

Questions referred

1. Are the provisions of Chapter III of Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market ⁽¹⁾ (**‘the Services Directive’**), including Article 10(6) of the Services Directive, applicable to proceedings concerning the disciplinary liability of Polish advocates and foreign lawyers registered with a Bar Association, in connection with which liability an advocate may, inter alia, be fined, suspended, or expelled from the bar, and a foreign lawyer may, inter alia, be fined, have his right to provide legal assistance in the Republic of Poland suspended, or be prohibited from providing legal assistance in the Republic of Poland? If the answer to the above question is in the affirmative, do the provisions of the Charter of Fundamental Rights of the European Union (**‘the Charter’**), including Article 47 thereof, apply to the above proceedings before Bar Association courts in cases where there is no right of appeal against the rulings of those courts to national courts or where such rulings are subject only to an extraordinary appeal, such as an appeal on a point of law to the Sąd Najwyższy (Supreme Court), also in cases where all the essential elements are present within a single Member State?

2. In a case where, in the proceedings referred to in Question 1, under the national legislation in force the body competent to hear an appeal on a point of law against a ruling or decision of a Bar Association disciplinary court or an objection to an order refusing such an appeal on a point of law is a body that, in the view of that court, which is consistent with the view expressed by the Sąd Najwyższy (Supreme Court) in its judgment of 5 December 2019, case reference III PO 7/18, is not an independent and impartial tribunal for the purposes of Article 47 of the Charter, is it necessary to disregard the national provisions establishing the jurisdiction of that body and is it the duty of the Bar Association disciplinary court to refer such an appeal on a point of law or objection to a judicial body which would have jurisdiction if those national provisions had not precluded it?

3. In a case where — in the proceedings referred to in Question 1 — no appeal on a point of law can be lodged against a ruling or decision of a Bar Association disciplinary court, according to the position of that court, either by the Public Prosecutor General or the Ombudsman, and that position is:
 - (a) contrary to the position expressed in the resolution of 27 November 2019, case reference II DSI 67/18, adopted by a seven-judge panel of the Izba Dyscyplinarna Sądu Najwyższego (Disciplinary Chamber of the Supreme Court), that is, the body which, under the national legislation in force, is competent to hear an objection to an order refusing an appeal on a point of law, but which, in the view of the Bar Association disciplinary court, which is consistent with the view expressed by the Sąd Najwyższy (Supreme Court) in its judgment of 5 December 2019, case reference III PO 7/18, is not an independent and impartial tribunal for the purposes of Article 47 of the Charter;

 - (b) consistent with the position previously expressed by the Izba Karna Sądu Najwyższego (Criminal Chamber of the Supreme Court), that is, the judicial body that would have jurisdiction to hear such an objection if those national provisions had not precluded it,

may (or should) the Bar Association disciplinary court disregard the position expressed by the Izba Dyscyplinarna Sądu Najwyższego (Disciplinary Chamber of the Supreme Court)?

4. If in the case referred to in Question 3, an appeal by the Minister for Justice has been lodged with a Bar Association disciplinary court, and:
 - (a) one of the factors which in the view of the Sąd Najwyższy (Supreme Court) as expressed in its judgment of 5 December 2019, case reference III PO 7/18, as well as in the view of the Bar Association disciplinary court, justify the assumption that the Izba Dyscyplinarna Sądu Najwyższego (Disciplinary Chamber of the Supreme Court), that is, the body referred to in Question 3(a), is not an independent and impartial tribunal for the purposes of Article 47 of the Charter, is the influence of the executive, including the Minister for Justice, on its composition;

- (b) the function of Public Prosecutor General, who — according to the position expressed by the Izba Dyscyplinarna Sądu Najwyższego (Disciplinary Chamber of the Supreme Court), that is, the body referred to in Question 3(a), would be entitled to lodge an appeal on a point of law against the decision made on appeal, and according to the position of the Izba Karna Sądu Najwyższego (Criminal Chamber of the Supreme Court), that is, the judicial body referred to in Question 3(b), and also according to the position of the Bar Association disciplinary court, is not entitled to lodge such an appeal, is by operation of law actually performed by the Minister for Justice,

should the Bar Association disciplinary court ignore that appeal if it is the only way in which it can ensure that the proceedings are compatible with Article 47 of the Charter and, in particular, prevent interference in those proceedings by a body which is not an independent and impartial tribunal for the purposes of that provision?

(¹) OJ 2006 L 376, p. 36.

Request for a preliminary ruling from the Bundesfinanzgericht (Austria) lodged on 4 February 2020 — K v Finanzamt Linz

(Case C-58/20)

(2020/C 191/10)

Language of the case: German

Referring court

Bundesfinanzgericht

Parties to the main proceedings

Appellant: K

Respondent authority: Finanzamt Linz

Question referred

Must Article 135(1)(g) of Directive 2006/112/EC (¹) be interpreted as meaning that the term ‘management of special investment funds’ also covers the tax-related responsibilities entrusted by the management company to a third party, consisting of ensuring that the income received by unit-holders from investment funds is taxed in accordance with the law?

(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 Bundesfinanzgericht (Austria) lodged on 4 February 2020 — DBKAG v Finanzamt Linz

(Case C-59/20)

(2020/C 191/11)

Language of the case: German

Referring court

Bundesfinanzgericht

Parties to the main proceedings

Applicant: DBKAG

Defendant: Finanzamt Linz