

Defendant: Administrația Fiscală pentru Contribuabili Mijlocii București — Direcția Generală Regională a Finanțelor Publice București

Intervener: Berlin Chemie AG

Questions referred

1. If a company that carries out supplies of goods in the territory of a Member State other than that in which it has established its business is to be regarded as having, within the meaning of the second sentence of Article 44 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ⁽¹⁾ and Article 11 of Council Regulation No 282/2011, a fixed establishment in the State in which it carries out those supplies, is it necessary for the human and technical resources employed by that company in the territory of that Member State to belong to it, or is it sufficient for that company to have immediate and permanent access to such human and technical resources through another affiliated company which it controls since it holds the majority of its shares?
2. If a company that carries out supplies of goods in the territory of a Member State other than that in which it has established its business is to be regarded as having, within the meaning of the second sentence of Article 44 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax and Article 11 of Council Regulation No 282/2011, ⁽²⁾ a fixed establishment in the State in which it carries out those supplies, is it necessary for the presumed fixed establishment to be directly involved in decisions relating to the supply of the goods, or is it sufficient for that company to have, in the State in which it carries out the supply of goods, technical and human resources that are made available to it through contracts concluded with third party companies for marketing, regulatory, advertising, storage and representation activities which are capable of having a direct influence on the volume of sales?
3. On a proper construction of the second sentence of Article 44 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax and Article 11 of Council Regulation No 282/2011, does the possibility for a taxable person to have immediate and permanent access to the technical and human resources of another affiliated taxable person controlled by it preclude that affiliated company from being regarded as a service provider for the fixed establishment thus created?

⁽¹⁾ OJ 2006 L 347, p. 1.

⁽²⁾ Council Implementing Regulation (EU) No 282/2011 of 15 March 2011 laying down implementing measures for Directive 2006/112/EC on the common system of value added tax (OJ 2011 L 77, p. 1).

Request for a preliminary ruling from the Cour de cassation (France) lodged on 23 July 2020 — DM, LR v Caisse régionale de Crédit agricole mutuel (CRCAM) Alpes-Provence

(Case C-337/20)

(2020/C 339/04)

Language of the case: French

Referring court

Cour de cassation

Parties to the main proceedings

Applicants: DM, LR

Defendant: Caisse régionale de Crédit agricole mutuel (CRCAM) Alpes-Provence

Questions referred

1. Is Article 58 of Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market, amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC, ⁽¹⁾ to be interpreted as establishing a liability regime for unauthorised or incorrectly executed payment transactions made by payment service providers, precluding any action under the ordinary rules of civil liability in respect of the same acts for breach by that provider of the obligations imposed on him or her by national law, in particular where the payment service user fails to inform the payment service provider of the unauthorised or incorrectly executed payment transaction within 13 months of the date of debit?

2. If the answer to the first question is in the affirmative, does that same article preclude the payment service user's guarantor from invoking the ordinary rules of civil liability in respect of the same facts against the payment service provider, beneficiary of the guarantee, in order to challenge the amount of the secured debt?

⁽¹⁾ OJ 2007 L 319, p. 1.

Request for a preliminary ruling from the Cour de cassation (France) lodged on 24 July 2020 — Bank Sepah v Overseas Financial Limited, Oaktree Finance Limited

(Case C-340/20)

(2020/C 339/05)

Language of the case: French

Referring court

Cour de cassation

Parties to the main proceedings

Applicant: Bank Sepah

Defendants: Overseas Financial Limited, Oaktree Finance Limited

Other party: Procureur général près la Cour de cassation

Questions referred

1. Are Article 1(h) and (j) and Article 7(1) of Regulation (EC) No 423/2007, ⁽¹⁾ Article 1(i) and (h) and Article 16(1) of Regulation (EU) No 961/2010 ⁽²⁾ and Article 1(k) and (j) and Article 23(1) of Regulation (EU) No 267/2012 ⁽³⁾ to be interpreted as precluding a measure with no earmarking effect, such as a judicial lien or preventive attachment, provided for in the French Code of Civil Enforcement Proceedings, from being implemented, without prior authorisation from the competent national authority, in respect of frozen assets?
2. Is it relevant to the answer to the first question that the grounds for the claim to be recovered from the person or entity whose assets are frozen are unrelated to Iran's nuclear and ballistic programme and pre-date United Nations Security Council Resolution 1737 (2006) of 23 December 2006?

⁽¹⁾ Council Regulation (EC) No 423/2007 of 19 April 2007 concerning restrictive measures against Iran (OJ 2007 L 103, p. 1).

⁽²⁾ Council Regulation (EU) No 961/2010 of 25 October 2010 on restrictive measures against Iran and repealing Regulation (EC) No 423/2007 (OJ 2010 L 281, p. 1).

⁽³⁾ Council Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation (EU) No 961/2010 (OJ 2012 L 88, p. 1).

Action brought on 24 July 2020 — European Commission v Italian Republic

(Case C-341/20)

(2020/C 339/06)

Language of the case: Italian

Parties

Applicant: European Commission (represented by: F. Moro, A. Armenia, Agents)

Defendant: Italian Republic