

Request for a preliminary ruling from the Varhoven administrativen sad (Bulgaria) lodged on 6 October 2021 — Momtrade Ruse OOD v Direktor na Direktsia ‘Obzhalvane i danachno-osiguritelna praktika’ Varna pri Tsentralno upravlenie na Natsionalnata agentsia za prihodite

(Case C-620/21)

(2022/C 24/22)

Language of the case: Bulgarian

Referring court

Varhoven administrativen sad

Parties to the main proceedings

Appellant in cassation and respondent in the cross-appeal: Momtrade Ruse OOD

Respondent in cassation and appellant in the cross-appeal: Direktor na Direktsia ‘Obzhalvane i danachno-osiguritelna praktika’ Varna pri Tsentralno upravlenie na Natsionalnata agentsia za prihodite

Questions referred

1. Can Article 132(1)(g) of the VAT Directive ⁽¹⁾ be interpreted as meaning that it allows a commercial company registered as a social service provider in one Member State (in this case, Bulgaria) to rely on that provision in order to obtain a tax exemption for the social services which it provides in the territory of other Member States to private individuals who are nationals of those States? Is the answer to that question affected by the fact that the recipients of the services were referred to the provider by commercial companies registered in the Member States in which the services are provided?
2. If Question 1 is answered in the affirmative, by what criteria and law (Bulgarian and/or Austrian and German law) is it necessary to assess, for the purposes of the interpretation and application of the aforesaid provision of EU law, whether the company audited is an organisation ‘recognised as being devoted to social wellbeing’ and whether it has been proven that the services are ‘closely linked to welfare and social security work’?
3. Based on that interpretation, does the fact that a commercial company is registered as a provider of social services, as defined by national law, suffice in order for that company to be classed as an organisation ‘recognised by the Member State concerned as being devoted to social wellbeing’?

⁽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 Administrativen sad Sofia-grad (Bulgaria) lodged on 6 October 2021 — WS v Intervyuirasht organ na Darzhavna agentsia za bezhantsite pri Ministerskia savet

(Case C-621/21)

(2022/C 24/23)

Language of the case: Bulgarian

Referring court

Administrativen sad Sofia-grad

Parties to the main proceedings

Applicant: WS

Defendant: Intervyuirasht organ na Darzhavna agentsia za bezhantsite pri Ministerskia savet

Questions referred

1. For the purpose of classifying gender-based violence against women as a ground for granting international protection under the 1951 Refugee Convention relating to the Status of Refugees and under Directive 2011/95/EU⁽¹⁾ of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted, do the definitions of terms and concepts in the United Nations Convention on the Elimination of All Forms of Discrimination against Women of 18 December 1979 and the Council of Europe Convention on preventing and combating violence against women and domestic violence apply in accordance with recital 17 of Directive 2011/95/EU, or does gender-based violence against women, as a ground for granting international protection under Directive 2011/95, have an autonomous meaning which differs from that in the abovementioned instruments of international law?
2. In the case where gender-based violence against women is alleged, must membership of a particular social group as a reason for persecution pursuant to Article 10(1)(d) of Directive 2011/95 be established by taking account solely of the biologically defined sex or socially constructed gender of the victim of persecution (violence against a woman merely because she is a woman), can the specific forms/acts/actions of persecution referred to in the non-exhaustive list in recital 30 be a relevant factor in determining the ‘visibility of the group in society’ — that is to say, can they be its distinguishing feature — depending on the circumstances in the country of origin, or can those acts relate only to the acts of persecution under Article 9(2)(a) or (f) of Directive 2011/95?
3. In the case where the person applying for protection alleges gender-based violence in the form of domestic violence, does that person’s biologically defined sex or socially constructed gender constitute a sufficient ground for determining membership of a particular social group under Article 10(1)(d) of Directive 2011/95, or must an additional distinguishing characteristic be established, on a literal interpretation, to the letter, of Article 10(1)(d) of Directive 2011/95/EU, which provides for the conditions as cumulative in nature and the gender-related aspects as alternative in nature?
4. In the case where the applicant alleges gender-based violence in the form of domestic violence by a non-State actor of persecution within the meaning of Article 6(c) of Directive 2011/95, is Article 9(3) of Directive 2011/95 to be interpreted as meaning that it is sufficient for the purpose of establishing a causal link that there is a link between the reasons for persecution set out in Article 10 and the acts of persecution referred to in paragraph 1 of that article, or is it mandatory to establish absence of protection from the alleged persecution; does the link exist in cases where the non-State actors of persecution do not perceive the individual acts of persecution/violence as such as being gender-based?
5. Can the real threat of an honour killing in the event that the person concerned is returned to the country of origin justify — if the other conditions for this are met — the granting of subsidiary protection under Article 15(a) of Directive 2011/95, read in conjunction with Article 2 of the ECHR (no one is to be deprived of his or her life intentionally), or is that threat to be classified as harm under Article 15(b) of Directive 2011/95, read in conjunction with Article 3 of the ECHR, as interpreted in the case-law of the European Court of Human Rights, in an overall assessment of the risk of further acts of gender-based violence; is it sufficient for the granting of such protection that the applicant has stated that he or she is subjectively unwilling to avail himself or herself of the protection of the country of origin?

⁽¹⁾ OJ 2011 L 337, p. 9.

Request for a preliminary ruling from the Gerechtshof’s-Hertogenbosch (Netherlands) lodged on 14 October 2021 — Taxi Horn Tours BV v Gemeente Weert, Gemeente Nederweert, Touringcars VOF

(Case C-631/21)

(2022/C 24/24)

Language of the case: Dutch

Referring court

Gerechtshof’s-Hertogenbosch