Judgment of the Court (Eighth Chamber) of 26 April 2012 (reference for a preliminary ruling from the Upper Tribunal (Tax and Chancery Chamber) (United Kingdom)) — The Commissioners for Her Majesty's Revenue and Customs v Able UK Ltd

(Case C-225/11) [1]

(VAT — Directive 2006/112 — Exemptions — Article 151(1)(c) — Supply of services of dismantling obsolete US Navy ships in the territory of a Member State)

(2012/C 174/17)

Language of the case: English

Referring court

Upper Tribunal (Tax and Chancery Chamber)

Parties to the main proceedings

Applicants: The Commissioners for Her Majesty's Revenue and Customs

Defendant: Able UK Ltd

Re:

Reference for a preliminary ruling — Upper Tribunal (Tax and Chancery Chamber) (United Kingdom) — Interpretation of Article 151(1)(c) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1) — Exemptions relating to certain transactions treated as exports — Dismantling of obsolete US Navy ships carried out on the territory of a Member State

Operative part of the judgment

Article 151(1)(c) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as meaning that a supply of services such as that at issue in the main proceedings, made in a Member State party to the North Atlantic Treaty and consisting in dismantling obsolete ships of the Navy of another State party to that treaty, is exempt from VAT under that provision only where

— *those services are supplied for staff of the armed forces of that other State taking part in the common defence effort or for the civilian staff accompanying them, and*

— *those services are supplied for members of the armed forces who are stationed in or visiting the Member State concerned or for the civilian staff accompanying them.*

[1] OJ C 211, 16.7.2011

Judgment of the Court (Third Chamber) of 3 May 2012 — Legris Industries SA v European Commission

(Case C-289/11 P) [1]

(Appeal — Competition — Cartels — Copper fittings and Copper alloy fittings Sector — Commission decision finding an infringement of Article 81 EC — Fines — Parent companies and subsidiaries — Whether unlawful conduct attributable)

(2012/C 174/18)

Language of the case: French

Parties

Appellant: Legris Industries SA (represented by: A. Wachsmann and S. Thibault-Liger, avocates)

Other party to the proceedings: European Commission (represented by: C. Giolito, acting as Agent)

Re:

Appeal brought against the judgment of the General Court (Eighth Chamber) of 24 March 2011 in Case T-376/06 *Legris Industries* v *Commission*, by which the Court dismissed the action for partial annulment of Commission Decision C(2006) 4180 final of 20 September 2006 relating to a proceeding under Article 81 [EC] and Article 53 of the EEA Agreement (Case COMP/F-1/38.121 — Fittings) — Copper Fittings and Copper Alloy Fittings Sector — Infringement of the right of access to an independent and impartial tribunal — Whether unlawful conduct attributable — Infringement of the principles of equal treatment, personal liability and the principle that the penalty must be specific to the offender — Distortion of evidence

Operative part of the judgment

The Court:

1. *Dismisses the appeal;*

2. *Orders Legris Industries SA to pay the costs.*

[1] OJ C 252, 27.8.2011.

Judgment of the Court (Third Chamber) of 3 May 2012 — Comap SA v European Commission

(Case C-290/11 P) [1]

(Appeal — Competition — Agreements, decisions and concerted practices — Copper and copper alloy fittings sector — Commission decision finding an infringement of Article 81 EC — Fines — Duration of the infringement — Concept of 'continuity')

(2012/C 174/19)

Language of the case: French

Parties

Appellant: Comap SA (represented by: A. Wachsmann and S. de Guigné, lawyers)

Other party to the proceedings: European Commission (represented by: C. Giolito, agent)

Re:

Appeal lodged against the judgment of the General Court (Eighth Chamber) of 24 March 2011 in Case T-377/06 *Comap* v *Commission*, by which the General Court dismissed the action for annulment in part of Commission Decision C(2006) 4180 final of 20 September 2006 relating to a proceeding under Article 81 of the EC Treaty and Article 53 of the EEA Agreement (Case COMP/F 1/38.121 — FITTINGS) — Copper and copper alloy fittings sector — Infringement of the right to an independent and impartial tribunal — Infringement of the principle of strict interpretation of criminal law — Notion of 'public distancing' — Distortion of evidence — Failure to state reasons

Operative part of the judgment

The Court:

1. *Dismisses the appeal;*

2. *Orders Comap SA to pay the costs.*

(1) OJ C 252, 27.8.2011.

Judgment of the Court (Second Chamber) of 10 April 2012 (Reference for a preliminary ruling from the Bundesgerichtshof — Germany) — Criminal proceedings against Minh Khoa Vo

(Case C-83/12 PPU) (1)

(Area of freedom, security and justice — Regulation (EC) No 810/2009 — Community Code on Visas — Articles 21 and 34 — National legislation — Third country nationals brought illegally into the territory of a Member State — Visas obtained by fraud — Criminal penalties imposed on the human smuggler)

(2012/C 174/20)

Language of the case: German

Referring court

Bundesgerichtshof

Party in the main proceedings

Minh Khoa Vo

Re:

Reference for a preliminary ruling — Bundesgerichtshof — Interpretation of Articles 21 and 34 of Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (OJ 2009 L 243, p. 1) — National legislation imposing criminal penalties on persons who smuggle foreign nationals into national territory — Applicability of penalties when the foreign nationals concerned are in possession of a visa obtained by false pretences from a competent authority of another Member State but which has not yet been annulled pursuant to that regulation

Operative part of the judgment

Articles 21 and 34 of Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code) are to be interpreted as meaning that they do not preclude national provisions under which assisting illegal immigration constitutes an offence subject to criminal penalties in cases where the persons smuggled, third country nationals, hold visas which they obtained fraudulently by deceiving the competent authorities of the Member State of issue as to the true purpose of their journey, without prior annulment of those visas.

(1) OJ C 126, 28.4.2012.

Reference for a preliminary ruling from the Bundesgerichtshof (Germany), lodged on 6 March 2012 — Josef Probst v mr.nexnet GmbH

(Case C-119/12)

(2012/C 174/21)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Appellant on a point of law: Josef Probst

Respondent in the appeal on a point of law: mr.nexnet GmbH

Question referred

Does Article 6(2) and (5) of Directive 2002/58/EC (1) permit the passing of traffic data from the service provider to the assignee of a claim for payment in respect of telecommunications services in the case where the assignment effected with a view to the collection of transferred debts includes, in addition to the general obligation to respect the privacy of telecommunications and to ensure data protection as provided for under the applicable legislation, the following contractual stipulations:

the service provider and the assignee undertake to process and use the protected data only within the framework of their cooperation and exclusively for the purpose of the contract and in the manner prescribed therein;

as soon as the information in the protected data is no longer required for such purpose, all protected data held in that connection are to be irreversibly erased or returned;

each contracting party is entitled to check that the other party has ensured data protection and data security in accordance with this agreement;