Reference for a preliminary ruling from the Înalta Curte de Casație și Justiție (Romania), lodged on 22 May 2012 — Corina-Hrisi Tulică v Agenția Națională de Administrare Fiscală — Direcția Generală de Soluționare a Contestațiilor

(Case C-249/12)

(2012/C 243/11)

Language of the case: Romanian

Referring court

Înalta Curte de Casație și Justiție

Parties to the main proceedings

Applicant: Corina-Hrisi Tulică

Defendant: Agenția Națională de Administrare Fiscală — Direcția Generală de Soluționare a Contestațiilor

Question referred

If a vendor has been reclassified as a taxable person for VAT purposes and the consideration for (price of) the supply of the immovable property has been determined by the parties, without any reference to VAT, must Articles 73 and 78 of Council Directive 2006/112/EC [1] be interpreted as meaning that the taxable amount is:

(a) the consideration for (price of) the supply of the property determined by the parties, less the rate of VAT, or

(b) the consideration for (price of) the supply of the property agreed by the parties?

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

Reference for a preliminary ruling from the Înalta Curte de Casație și Justiție (Romania), lodged on 22 May 2012 — Călin Ion Plavoșin v Direcția Generală a Finanțelor Publice Timiș — Serviciul Soluționare Contestații, Activitatea de Inspecție Fiscală — Serviciul de Inspecție Fiscală Timiș

(Case C-250/12)

(2012/C 243/12)

Language of the case: Romanian

Referring court

Înalta Curte de Casație și Justiție

Parties to the main proceedings

Applicant: Călin Ion Plavoșin

Defendants: Direcția Generală a Finanțelor Publice Timiș — Serviciul Soluționare Contestații, Activitatea de Inspecție Fiscală — Serviciul de Inspecție Fiscală Timiș

Question referred

In the case where a vendor has been reclassified as a taxable person for VAT purposes and the consideration for (price of) the supply of the immovable property has been determined by the parties, without any reference to VAT, must Articles 73 and 78 of Council Directive 2006/112/EC [1] be interpreted as meaning that the taxable amount is:

(a) the consideration for (price of) the supply of the property determined by the parties, less the rate of VAT, or

(b) the consideration for (price of) the supply of the property agreed by the parties?

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

Reference for a preliminary ruling from the Administrativen sad — Plovdiv (Bulgaria), lodged on 24 May 2012 — Teritorialna direktsia na Natsionalnata Agentsia za Prihodite — Plovdiv v 'RODOPI-M 91' OOD

(Case C-259/12)

(2012/C 243/13)

Language of the case: Bulgarian

Referring court

Administrativen sad — Plovdiv

Parties to the main proceedings

Appellant: Teritorialna direktsia na Natsionalnata Agentsia za Prihodite — Plovdiv

Respondent: 'RODOPI-M 91' OOD

Questions referred

1.1. Does the principle of VAT neutrality permit a Member State to impose a fine for failure to show cancellation of an invoice on time even though that cancellation is later shown in the accounts and the party concerned has paid the VAT resulting from cancellation plus the interest thereon?

1.2. Are the following circumstances of significance in connection with the first question:

— The period within which cancellation of an invoice should supposedly be shown is 14 days from the end of the calendar month in which the cancellation takes place;

— Cancellation of the invoice was in fact shown one month after the end of the period within which cancellation should supposedly have taken place;

— The VAT owed plus interest thereon was forwarded to the Treasury?

2. Do Articles 242 and 273 of Directive 2006/112/EC [1] permit the Member States to impose a fine on taxpayers who have allegedly failed to fulfil on time their duty to show circumstances in their accounts that are of significance to the calculation of VAT where that fine amounts to the VAT not paid on time if that default is later remedied and the VAT owed is paid in full plus interest thereon?

3. Is significance to be attributed to the fact that the Treasury has not been adversely affected as the party concerned later showed cancellation of the invoice and paid all of the VAT plus interest thereon?

4. Does the imposition of a fine in the full amount of VAT already paid plus interest thereon contravene the principle of proportionality?

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

Reference for a preliminary ruling from the Conseil d'État (France) lodged on 29 May 2012 — Association Vent De Colère! Fédération nationale, Alain Bruguier, Jean-Pierre Le Gorgeu, Marie-Christine Piot, Eric Errec, Didier Wirth, Daniel Steinbach, Sabine Servan-Schreiber, Philippe Rusch, Pierre Recher, Jean-Louis Moret, Didier Jocteur Monrozier v Ministre de l'écologie, du développement durable, des transports et du logement, Ministre de l'Économie, des Finances et de l'Industrie

(Case C-262/12)

(2012/C 243/14)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Applicants: Association Vent De Colère! Fédération nationale, Alain Bruguier, Jean-Pierre Le Gorgeu, Marie-Christine Piot, Eric Errec, Didier Wirth, Daniel Steinbach, Sabine Servan-Schreiber, Philippe Rusch, Pierre Recher, Jean-Louis Moret, Didier Jocteur Monrozier

Defendants: Ministre de l'écologie, du développement durable, des transports et du logement, Ministre de l'Économie, des Finances et de l'Industrie

Question referred

In the light of the change in the mechanism for financing in full the additional costs imposed on Électricité de France and the non-nationalised distributors referred to in Article 23 of Law No 46-628 of 8 April 1946 on the nationalisation of electricity and gas by the obligation to purchase at higher than market price the electricity generated by wind-power installations, as a result of Law No 2003-8 of 3 January 2003, must that mechanism now be regarded as an intervention by the State or through State resources within the meaning, and for the application, of Article 87 EC?

Reference for a preliminary ruling from the Cour d'appel de Mons (Belgium) lodged on 1 June 2012 — Petroma Transports SA, Martens Energie SA, Martens Immo SA, Martens SA, Fabian Martens, Geoffroy Martens, Thibault Martens v État belge

(Case C-271/12)

(2012/C 243/15)

Language of the case: French

Referring court

Cour d'appel de Mons

Parties to the main proceedings

Applicants: Petroma Transports SA, Martens Energie SA, Martens Immo SA, Martens SA, Fabian Martens, Geoffroy Martens, Thibault Martens

Defendant: État belge

Questions referred

1. Is a Member State entitled to refuse to allow a deduction in favour of taxable persons who are recipients of services and are in possession of invoices which are incomplete, but which have been supplemented by the provision of information seeking to prove the occurrence, the nature and the amount of the transactions invoiced (contracts, reconstitution of figures on the basis of declarations made to the national social security institution, information on the functioning of the group involved, …)?

2. Must a Member State which refuses, on the basis of inaccuracies in invoices, to allow a deduction in favour of taxable persons who are recipients of services not find that the invoices are then also too inaccurate to allow payment of the VAT? Consequently, is a Member State not required, in order to safeguard the principle of neutrality of VAT, to repay the VAT which has been paid to it to the companies which supplied the services thus disputed?