

Judgment of the Court (Fourth Chamber) of 12 July 2012 (reference for a preliminary ruling from the Hoge Raad der Nederlanden — Netherlands) — J.J. Komen en Zonen Beheer Heerhugowaard BV v Staatssecretaris van Financiën

(Case C-326/11) ⁽¹⁾

(Sixth VAT Directive — Article 13B(g), read in conjunction with Article 4(3)(a) — Supply of buildings and the land upon which they stand — Supply of a building undergoing work with the view to the creation of a new building by transformation — Continuation and completion of the work by the purchaser after the supply — Exemption from VAT)

(2012/C 287/27)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Applicant: J.J. Komen en Zonen Beheer Heerhugowaard BV

Defendant: Staatssecretaris van Financiën

Re:

Reference for a preliminary ruling — Hoge Raad der Nederlanden — Interpretation of Articles 4(3)(a) and 13B(g) of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (OJ 1977 L 145, p. 1) — Exemptions provided for in the Sixth Directive — Exemption for supplies of buildings and the land on which they stand — Supply of a building on which work is being carried out with a view to the creation of a new building — Continuation and completion of the work by the purchaser after the supply

Operative part of the judgment

Article 13B(g) of the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment, read in conjunction with Article 4(3)(a) of that directive, must be interpreted as meaning that the exemption from value added tax provided for in that first provision covers a supply of immovable property consisting of a plot of land and an old building undergoing transformation into a new building, such as that in issue in the main proceedings, where, at the time of that supply, the old building had only undergone partial demolition work and was, at least in part, still used as such.

⁽¹⁾ OJ C 269, 10.9.2011.

Reference for a preliminary ruling from the Amtsgericht Düsseldorf (Germany) lodged on 4 May 2012 — Helmut Butz, Christel Bachman-Butz, Frederike Butz v Société Air France SA

(Case C-212/12)

(2012/C 287/28)

Language of the case: German

Referring court

Amtsgericht Düsseldorf

Parties to the main proceedings

Applicant: Helmut Butz, Christel Bachman-Butz, Frederike Butz

Defendant: Société Air France SA

Question referred

Is a passenger entitled to compensation under Article 7 of Regulation (EC) No 261/2004 ⁽¹⁾ if the first flight is delayed by a period of time which falls within the limit defined in Article 6(1) of Regulation (EC) No 261/2004, but the connecting flight is delayed by a period of time which exceeds that limit and arrives at the place of final destination at least three hours after the scheduled time of arrival?

⁽¹⁾ Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 (OJ 2004 L 46, p. 1).

Reference for a preliminary ruling from the Verwaltungsgericht Hannover (Germany) lodged on 11 May 2012 — Andreas Ingemar Thiele Meneses v Region Hannover

(Case C-220/12)

(2012/C 287/29)

Language of the case: German

Referring court

Verwaltungsgericht Hannover

Parties to the main proceedings

Applicant: Andreas Ingemar Thiele Meneses

Defendant: Region Hannover

Question referred

Does the right to freedom of movement and freedom of residence conferred on a Union citizen by Articles 20 and 21 TFEU preclude a regulatory system in national law under which German nationals with a permanent residence outside the Federal Republic of Germany may be awarded an education grant to attend an education establishment situated in a Member State of the European Union only if the education establishment is either in the country of permanent residence or in a neighbouring state of that country and, moreover, special circumstances of the individual case justify the grant?

Reference for a preliminary ruling from the Raad van State (Netherlands), lodged on 4 June 2012 — A. Adil; other party: Minister voor Immigratie, Integratie en Asiel

(Case C-278/12)

(2012/C 287/30)

Language of the case: Dutch

Referring court

Raad van State

Parties to the main proceedings

Appellant: A. Adil

Other party: Minister voor Immigratie, Integratie en Asiel

Questions referred

1. Must Article 21 of the Schengen Borders Code ⁽¹⁾ be interpreted in such a way as to preclude the exercise of a national power, as conferred in Article 50 of the Vreemdelingenwet 2000 (Law on Foreign Nationals 2000) and set out in greater detail in Article 4.17a of the Vreemdelingenbesluit 2000 (Decree on Foreign Nationals 2000), to carry out checks on persons in areas behind internal borders with a view to establishing whether those persons satisfy the requirements for lawful residence laid down by the Member State concerned?
2. (a) Does Article 21 of the Schengen Borders Code preclude national checks, such as those referred to in Article 50 of the Vreemdelingenwet 2000, from being carried out on the basis of general information and experience regarding the illegal residence of persons at the place where the check is to be carried out, as referred to in Article 4.17a(2) of the Vreemdelingenbesluit 2000, or should there be concrete indications, when such checks are carried out, that an individual on whom checks are to be carried out is illegally resident in the Member State concerned?
- (b) Does Article 21 of the Schengen Borders Code preclude such a check from being carried out with a view to obtaining the general information and experience-based data regarding illegal residence referred to in (a) above, if this occurs to a limited extent?

3. Must Article 21 of the Schengen Borders Code be interpreted in such a way that the restriction of the power to carry out checks in such a way as that described in a statutory rule such as Article 4.17a of the Vreemdelingenbesluit 2000 constitutes a sufficient safeguard for the purpose of ensuring that a check cannot in fact have the effect of a border check prohibited by Article 21 of the Schengen Borders Code?

⁽¹⁾ Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ 2006 L 105, p. 1).

Reference for a preliminary ruling from the Bundesfinanzhof (Germany) lodged on 20 June 2012 — Finanzamt Düsseldorf-Mitte v Ibero Tours GmbH

(Case C-300/12)

(2012/C 287/31)

Language of the case: German

Referring court

Bundesfinanzhof

Parties to the main proceedings

Applicant: Finanzamt Düsseldorf-Mitte

Defendant: Ibero Tours GmbH

Questions referred

1. According to the principles of the judgment of the Court of Justice of the European Union in Case C-317/94 *Elida Gibbs* [1996] ECR I-5339, does it also result in a reduction of the taxable amount within the context of a distribution chain if an intermediary (here: a travel agent) refunds to the customer (here: a travel client) in the transaction arranged by him (here: services of the tour operator provided to the travel client) part of the price for the transaction arranged?
2. In the event that Question 1 is answered in the affirmative: must the principles of the judgment of the Court of Justice of the European Union in Case C-317/94 *Elida Gibbs* [1996] ECR I-5339 also be applied if the tour operator's transaction which has been arranged by the intermediary falls within the special scheme under Article 26 of the Sixth Council Directive of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes (77/388/EEC ⁽¹⁾) but the intermediary services of the travel agent do not fall within that provision?