

Questions referred

1. Do Article 135(1)(i) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ⁽¹⁾ and the principle of fiscal neutrality permit a Member State to exclude from the benefit of the exemption contained in that provision only gambling which is provided electronically while gambling which is not provided electronically remains exempt from VAT?
2. Do Article 135(1)(i) of Directive 2006/112 and the principle of fiscal neutrality permit a Member State to exclude from the benefit of the exemption contained in that provision only gambling which is provided electronically to the exclusion of lotteries which remain exempt from VAT whether or not they are provided electronically?
3. Does the third paragraph of Article 267 of the Treaty on the Functioning of the European Union permit a higher court to decide to maintain the effects of a provision of national law which it annuls because of an infringement of national law without ruling on the infringement of EU law which was also raised before it, and, therefore, without referring for a preliminary ruling the question of the compatibility of that provision of national law with EU law or asking the Court about the circumstances in which it could decide to maintain the effects of that provision in spite of its incompatibility with EU law?
4. If the answer to one of the previous questions is in the negative, could the Constitutional Court maintain the past effects of the provisions which it annulled because of their incompatibility with national rules on the division of powers when those provisions were also incompatible with Directive 2006/112, in order to prevent budgetary and administrative difficulties from arising from reimbursement of taxes already paid?
5. If the answer to the previous question is in the negative, can the taxable person be reimbursed the VAT which it has paid on the actual gross margin on the gaming and betting which it operates on the basis of provisions incompatible with Directive 2006/112 and the principle of fiscal neutrality?

⁽¹⁾ OJ 2006 L 347, p. 1.

Order of the President of the Court of 7 February 2023 (request for a preliminary ruling from the Augstākā tiesa (Senāts) — Latvia) — SIA ‘Ogres HES’, intervening parties: Sabiedrisko pakalpojumu regulēšanas komisija, Ekonomikas ministrija, Finanšu ministrija

(Case C-152/21, ⁽¹⁾ Ogres HES)

(2023/C 164/43)

Language of the case: Latvian

The President of the Court has ordered that the case be removed from the register.

⁽¹⁾ OJ C 242, 21.6.2021.

Order of the President of the Court of 28 December 2022 (request for a preliminary ruling from the Tribunal d’arrondissement de Luxembourg — Luxembourg) — G-Finance SARL, DV v Luxembourg Business Registers

(Case C-317/21, ⁽¹⁾ G-Finance)

(2023/C 164/44)

Language of the case: French

The President of the Court has ordered that the case be removed from the register.

⁽¹⁾ OJ C 297, 26.7.2021.