3. If that is so, and only if it is impossible to provide an interpretation in conformity with EU law, is the principle of the primacy of EU law to be interpreted as precluding national legislation or a national practice pursuant to which the ordinary national courts are bound by decisions of the national constitutional court and binding decisions of the national supreme court and, for that reason, cannot, without committing a disciplinary offence, of their own motion disapply the case-law resulting from those decisions, even if, in light of a judgment of the Court of Justice, they take the view that that case-law is contrary to Article 2 TEU, the second paragraph of Article 19(1) TEU and Article 4[(3)] TEU, read in conjunction with Article 325(1) TFEU, in application of Commission Decision 2006/928/EC, with reference to the last sentence of Article 49[(1)] of the Charter of Fundamental Rights of the European Union, as in the situation in the main proceedings?

([1]) Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on the protection of the European Communities' financial interests (OJ 1995 C 316, p. 49).

([2]) Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ 2017 L 198, p. 29).

([3]) OJ 2006 L 347, p. l.

([4]) Commission Decision of 13 December 2006 establishing a mechanism for cooperation and verification of progress in Romania to address specific benchmarks in the areas of judicial reform and the fight against corruption (OJ 2006 L 354, p. 56).

Request for a preliminary ruling from the Bundesfinanzhof (Germany) lodged on 15 February 2023 — H GmbH v Tax office of M

(Case C-83/23, H GmbH)

(2023/C 205/28)

Language of the case: German

Referring court

Bundesfinanzhof

Parties to the main proceedings

Applicant: H GmbH

Defendant: Tax office of M

Questions referred

Questions referred for a preliminary ruling on the interpretation of Directive 2006/112/EC: ([1])

1. Does the recipient of a service, who is domiciled in the national territory, have a so-called direct claim against the national tax administration by virtue of the judgment of the Court of 15 March 2007, *Reemtsma Cigarettenfabriken* — C-35/05 (EU:C:2007:167) if:

   (a) the service provider, who is also domiciled within the national territory, issues the service recipient with an invoice that shows the tax incurred at a national level and the service recipient pays the invoice, with the provider then duly paying the tax shown in the invoice,

   (b) the invoiced service is provided in another Member State,

   (c) the service recipient is therefore denied an input VAT deduction in its country of domicile because no tax is owed under the laws of that country,

   (d) the provider then corrects the invoice by removing any reference to the tax incurred at a national level, thereby reducing the invoice amount by the amount of the tax,

   (e) the service recipient proves unable to assert any payment claims against the provider because insolvency proceedings were opened in respect of the provider's assets, and

(f) the provider, who is not yet registered in the other Member State, has the option to register for VAT purposes in that Member State in order to be able to issue the service recipient with an invoice bearing the relevant tax number in that Member State and showing the tax payable in said Member State, which would entitle the service recipient to an input VAT deduction in said Member State under the special procedure set out in Directive 2008/9/EC [2] of 12 February 2008?

2. Does the answer to that question depend on whether the national tax administration has refunded the tax paid to the provider merely by virtue of the corrected invoice, even though the provider did not repay anything to the service recipient following the opening of insolvency proceedings?

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

[2] Council Directive 2008/9/EC of 12 February 2008 laying down detailed rules for the refund of value added tax, provided for in Directive 2006/112/EC, to taxable persons not established in the Member State of refund but established in another Member State (OJ 2008 L 44, p. 23).

Request for a preliminary ruling from the Wojewódzki Sąd Administracyjny w Warszawie (Poland) lodged on 21 February 2023 — Rada nadzorcza Getin Noble Bank and Others v Bankowy Fundusz Gwarancyjny

(Case C-118/23, Getin Holding and Others)

(2023/C 205/29)

Language of the case: Polish

Referring court

Wojewódzki Sąd Administracyjny w Warszawie

Parties to the main proceedings

Applicants: Rada nadzorcza Getin Noble Bank and Others

Defendant: Bankowy Fundusz Gwarancyjny

Questions referred

1. Is Article 85(2) and (3) of Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, [1] of the European Parliament and of the Council (OJ 2014 L 173, p. 190, as amended), in conjunction with Article 47 of the Charter of Fundamental Rights of the European Union (OJ 2007 C 303, p. 1), and the second paragraph of Article 19(1) of the Treaty on European Union (Dz. U. of 2004, No 90, item 864/30, as amended), to be interpreted as meaning that, when the supervisory board of an entity undergoing restructuring brings an action before a national administrative court against a decision concerning compulsory restructuring, an effective legal remedy is deemed to be available also to persons who, in bringing an action against that decision, seek protection of their legal interest, where the court, in reviewing the contested decision, is not bound by the pleas in law and conclusions of the action or the legal basis relied on, a final judgment, given as a result of hearing that action, is effective *erga omnes*, and the possibility for those persons obtaining protection of their legal interest is not conditional on them bringing a separate action before an administrative court against that decision?

2. Is Article 85(3) of Directive 2014/59/EU, which requires effective judicial review, and Article 47 of the Charter of Fundamental Rights of the European Union, and the second subparagraph of Article 19(1) of the Treaty on European Union, which provide for effective legal protection, to be interpreted as precluding the application of a procedural rule of a Member State which requires a national administrative court to hear jointly all actions brought before it against a decision of a resolution authority where the application of that rule, together with other national procedural requirements relating to administrative courts, makes it excessively difficult, if not impossible, to give judgment in the case within a reasonable period, in view of the large number of such actions?