

Questions referred

1. Is a provision of a law of a Member State, which entered into force on 1 January 2008, after the right to deduct had arisen, and which, for the purposes of the deduction of VAT paid and declared in relation to supplies of goods or services made in the 2007 financial year, requires the amendment of the content of invoices and the submission of a supplementary declaration, compatible with Articles 17 and 20 of the Sixth Directive? ⁽¹⁾
2. Is the measure laid down by Paragraph 269(1) of the new VAT Law, according to which, if the requirements set out in the previous question are complied with, rights and obligations must be determined and applied in accordance with the provisions of that Law, even where they arose before the entry into force thereof, within the limitation period, compatible with the general principles of Community law, and, in particular, is it objectively justifiable, reasonable, proportionate and consistent with the principle of legal certainty?

⁽¹⁾ 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 OJ 1997 L 145, p. 1.

Reference for a preliminary ruling from the Nejvyšší správní soud (Supreme Administrative Court) (Czech Republic) lodged on 5 October 2009 — Bezpečnostní softwarová asociace (Security software association) v Ministerstvo kultury ČR (Ministry of Culture of the Czech Republic)

(Case C-393/09)

(2010/C 11/24)

Language of the case: Czech

Referring court

Nejvyšší správní soud (Supreme Administrative Court) (Czech Republic)

Parties to the main proceedings

Applicant: Bezpečnostní softwarová asociace (Security software association)

Defendant: Ministerstvo kultury ČR (Ministry of Culture of the Czech Republic)

Questions referred

1. Should Article 1(2) of Council Directive 91/250/EEC ⁽¹⁾ of 14 May 1991 on the legal protection of computer programs

be interpreted as meaning that, for the purposes of the copyright protection of a computer program as a work under that directive, the phrase 'the expression in any form of a computer program' also includes the graphic user interface of the computer program or part thereof?

2. If the answer to the first question is in the affirmative, does television broadcasting, whereby the public is enabled to have sensory perception of the graphic user interface of a computer program or part thereof, albeit without the possibility of actively exercising control over that program, constitute making a work or part thereof available to the public within the meaning of Article 3(1) of European Parliament and Council Directive 2001/29/EC ⁽²⁾ of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society?

⁽¹⁾ Council Directive 91/250/EEC of 14 May 1991 on the legal protection of computer programs (OJ 1991 L 122, p. 42).

⁽²⁾ Corrigendum to Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society (OJ 2001 L 167, p. 10).

Appeal brought on 3 October 2009 by Evropaïki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE against the order of the Court of First Instance (Fourth Chamber) delivered on 2 July 2009 in Case T-279/06: Evropaïki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE v Banque centrale européenne BCE

(Case C-401/09 P)

(2010/C 11/25)

Language of the case: English

Parties

Appellant: Evropaïki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE (represented by: N. Korogiannakis and M. Dermitzakis, Δικηγόροι)

Other party to the proceedings: European Central Bank

Form of order sought

The applicant claims that the Court should:

— Set aside the decision of the Court of First Instance;

— Annul the decision of the European Central Bank to evaluate the applicant's bid as not successful and award the contract to the successful contractor;