

2. If the answer to Question 1 is in the affirmative: does Article 322(b) of Directive 2006/112 require that the dealer be denied the right to deduct input tax paid on the intra-Community acquisition of works of art, even if there is no equivalent provision under national law?

<sup>(1)</sup> OJ 2006 L 347, p. 1.

**Request for a preliminary ruling from the Oberlandesgericht Düsseldorf (Germany) lodged on  
17 May 2017 — Rhein-Sieg-Kreis v Verkehrsbetrieb Hüttebräucker GmbH, BVR Busverkehr  
Rheinland GmbH**

(Case C-266/17)

(2017/C 283/25)

*Language of the case: German*

**Referring court**

Oberlandesgericht Düsseldorf

**Parties to the main proceedings**

*Appellant:* Rhein-Sieg-Kreis

*Respondents:* Verkehrsbetrieb Hüttebräucker GmbH, BVR Busverkehr Rheinland GmbH

**Questions referred**

1. Does Article 5(2) of Regulation (EC) No 1370/2007 <sup>(1)</sup> apply to contracts which are not contracts which, within the meaning of the first sentence of Article 5(1) of Regulation (EC) No 1370/2007, take the form of service concession contracts as defined in Directives 2004/17/EC <sup>(2)</sup> or 2004/18/EC? <sup>(3)</sup>

If Question 1 is answered in the affirmative:

2. Where an individual competent authority awards a public service contract directly to an internal operator in accordance with Article 5(2) of Regulation (EC) No 1370/2007, is the joint exercise of control by that authority together with the other shareholders of the internal operator precluded if the power to intervene in public passenger transport in a given geographical area (Article 2(b) and (c) of Regulation (EC) No 1370/2007) is divided between the individual competent authority and a group of authorities which provides integrated public passenger transport services, for example where the power to award public service contracts to an internal operator remains with the individual competent authority but the responsibility for tariffs is transferred to a special purpose transport association to which, in addition to the individual authority, further authorities competent in their geographical areas belong?
3. Where an individual competent authority awards a public service contract directly to an internal operator in accordance with Article 5(2) of Regulation (EC) No 1370/2007, is the joint exercise of control by that authority together with the other shareholders of the internal operator precluded if, according to that operator's articles of association, in the case of resolutions concerning the conclusion, amendment or termination of a public service contract referred to in Article 5(2) of Regulation (EC) No 1370/2007, the only shareholder entitled to vote is the one which itself or whose indirect or direct owner awards a public service contract to the internal operator in accordance with Article 5(2) of Regulation (EC) No 1370/2007?
4. Does Article 5(2)(b) of Regulation (EC) No 1370/2007 permit the internal operator also to perform public passenger transport services for other competent local authorities within their territory (including through routes or other part services which enter the territory of neighbouring competent local authorities) if these are not awarded through organised competitive tender procedures?
5. Does Article 5(2)(b) of Regulation (EC) No 1370/2007 permit the internal operator also to perform public passenger transport activity outside the territory of the commissioning authority for other authorities on the basis of public service contracts covered by the transitional provisions of Article 8(3) of Regulation (EC) No 1370/2007?

6. On which date must the requirements of Article 5(2) of Regulation (EC) No 1370/2007 be satisfied?

- <sup>(1)</sup> Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70, OJ 2007 L 315, p. 1.
- <sup>(2)</sup> Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors, OJ 2004 L 134, p. 1.
- <sup>(3)</sup> Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts, OJ 2004 L 134, p. 114.

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**Request for a preliminary ruling from the Amtsgericht Hannover (Germany) lodged on 18 May 2017 — Herbert Blesgen v TUIfly GmbH**

(Case C-283/17)

(2017/C 283/26)

*Language of the case: German*

**Referring court**

Amtsgericht Hannover

**Parties to the main proceedings**

*Applicant:* Herbert Blesgen

*Defendant:* TUIfly GmbH

**Questions referred**

1. Is the absence on sick leave of a significant part of an operating air carrier's staff for flight operation an extraordinary circumstance under Article 5(3) of Regulation (EC) No 261/2004? <sup>(1)</sup> In the event that the first question is answered in the affirmative: how high must the rate of absence be to constitute such an extraordinary circumstance?
2. In the event that the first question is answered in the negative: Is the spontaneous absence, due to unauthorised work stoppage under employment law or collective agreements ('wildcat strike'), of a significant part of an operating air carrier's staff for flight operation an extraordinary circumstance under Article 5(3) of Regulation (EC) No 261/2004? In the event that the second question is answered in the affirmative: how high must the rate of absence be to constitute such an extraordinary circumstance?
3. In the event that the first or the second question is answered in the affirmative: must the extraordinary circumstance itself have been present at the time the flight was cancelled or is the operating air carrier entitled to devise a new flight plan pursuant to economic considerations?
4. In the event that the first or the second question is answered in the affirmative: does the avoidability criterion relate to the extraordinary circumstance or, rather, to the consequences of the occurrence of the extraordinary circumstance?

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<sup>(1)</sup> 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).