

Operative part of the judgment

Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection, in particular Articles 12, 14, 31 and 46 thereof, read in the light of Article 47 of the Charter of Fundamental Rights of the European Union, must be interpreted as not precluding the national court or tribunal hearing an appeal against a decision rejecting a manifestly unfounded application for international protection from dismissing the appeal without hearing the applicant where the factual circumstances leave no doubt as to whether that decision was well founded, on condition that, first, during the proceedings at first instance, the applicant was given the opportunity of a personal interview on his or her application for international protection, in accordance with Article 14 of the directive, and the report or transcript of the interview, if an interview was conducted, was placed on the case-file, in accordance with Article 17(2) of the directive, and, second, the court hearing the appeal may order that a hearing be conducted if it considers it necessary for the purpose of ensuring that there is a full and *ex nunc* examination of both facts and points of law, as required under Article 46(3) of the directive.

(¹) OJ C 343, 19.9.2016.

Judgment of the Court (Ninth Chamber) of 26 July 2017 (request for a preliminary ruling from the Lietuvos vyriausiasis administracinis teismas — Lithuania) — ‘Toridas’ UAB v Valstybinė mokesčių inspekcija prie Lietuvos Respublikos finansų ministerijos

(Case C-386/16) (¹)

(Reference for a preliminary ruling — Common system of value added tax (VAT) — Directive 2006/112/EC — Article 138(1) — Classification of a transaction as an intra-Community supply — Exemption of intra-Community supplies of goods — Intention of the person acquiring the goods to resell them to a taxable person in another Member State before they are taken out of the first Member State — Possible effect of some of the goods being processed before they are dispatched)

(2017/C 309/17)

Language of the case: Lithuanian

Referring court

Lietuvos vyriausiasis administracinis teismas

Parties to the main proceedings

Applicant: ‘Toridas’ UAB

Defendant: Valstybinė mokesčių inspekcija prie Lietuvos Respublikos finansų ministerijos

Intervening party: Kauno apskrities valstybinė mokesčių inspekcija

Operative part of the judgment

1. Article 138(1) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as meaning that, in circumstances such as those of the main proceedings, a supply of goods by a taxable person established in a first Member State is not exempt from value added tax under that provision where, prior to entering into that supply transaction, the person acquiring the goods, who is identified for value added tax purposes in a second Member State, informs the supplier that the goods will be resold immediately to a taxable person established in a third Member State, before he takes them out of the first Member State and transports them to that third taxable person, provided that that second supply has in fact been carried out and the goods have then been transported from the first Member State to the Member State of the third taxable person. The fact that the first person acquiring the goods is identified for value added tax purposes in a Member State other than that of the place of the first supply or that of the place of the final acquisition is not a criterion for classification of an intra-Community transaction or, in itself, evidence sufficient to show that a transaction is an intra-Community one.

2. For the purposes of interpreting Article 138(1) of Directive 2006/112, processing of the goods, in the course of a chain of two successive supplies, such as that at issue in the main proceedings, carried out on the instructions of the middleman acquiring the goods and before the goods are transported to the Member State of the person finally acquiring them, has no effect on the conditions for any exemption of the first supply where that processing takes place after the first supply.

⁽¹⁾ OJ C 343, 19.9.2016.

Judgment of the Court (Sixth Chamber) of 26 July 2017 — Staatliche Porzellan-Manufaktur Meissen GmbH v European Union Intellectual Property Office (EUIPO), Meissen Keramik GmbH

(Case C-471/16 P) ⁽¹⁾

(Appeal — EU trade mark — Opposition proceedings — Application for registration of the figurative mark including the word element ‘meissen’ — Rejection of the opposition — Evidence presented for the first time — Distortion — Genuine use of the earlier trade marks — Regulation (EC) No 207/2009 — Article 7(3) — Article 8(5) — Link between the trade marks to be compared)

(2017/C 309/18)

Language of the case: German

Parties

Appellant: Staatliche Porzellan-Manufaktur Meissen GmbH (represented by: O. Spuhler and M. Geitz, Rechtsanwälte)

Other parties to the proceedings: European Union Intellectual Property Office (EUIPO) (represented by: M. Fischer, acting as Agent), Meissen Keramik GmbH (represented by: M. Vohwinkel and K. Gennen, Rechtsanwälte)

Operative part of the judgment

The Court:

1. Dismisses the appeal;
2. Orders Staatliche Porzellan-Manufaktur Meissen GmbH to pay the costs.

⁽¹⁾ OJ C 454, 5.12. 2016.

Judgment of the Court (Grand Chamber) of 26 July 2017 (request for a preliminary ruling from the Vrhovno sodišče Republike Slovenije — Slovenia) — A.S. v Republika Slovenija

(Case C-490/16) ⁽¹⁾

(Reference for a preliminary ruling — Regulation (EU) No 604/2013 — Determination of the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national — Arrival of an exceptionally large number of third-country nationals wishing to obtain international protection — Organisation by the authorities of a Member State of the crossing of the border for the purpose of transit to another Member State — Entry authorised by way of derogation for humanitarian reasons — Article 13 — Irregular crossing of an external border — Period of 12 months from the crossing of the border — Article 27 — Remedy — Scope of judicial review — Article 29 — Period of six months for the purpose of effecting the transfer — Running of the periods — Use of an appeal — Suspensory effect)

(2017/C 309/19)

Language of the case: Slovenian

Referring court

Vrhovno sodišče Republike Slovenije