b. In the alternative, the judgment violated the set-off principle because it failed to take into account the first penalty when determining the second penalty.

c. In the further alternative, the judgment erred in law in failing to apply the principle of concurrent offences: the alleged breach of the notification obligation in Article 4(1) was the more specific offence and therefore subsumed the alleged breach of the standstill obligation in Article 7(1) EUMR, which was the more general offence.

(1) Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation) (OJ 2004, L 24, p. 1).

Request for a preliminary ruling from the Szegedi Közigazgatási és Munkaügyi Bíróság (Hungary) lodged on 8 January 2018 — Sole-Mizo Zrt. v Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága

(Case C-13/18)

(2018/C 142/31)

Language of the case: Hungarian

Referring court

Szegedi Közigazgatási és Munkaügyi Bíróság

Parties to the main proceedings

Applicant: Sole-Mizo Zrt.

Defendant: Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága

Questions referred

1. Is a practice of a Member State pursuant to which, when the relevant default-interest provisions are examined, it is proceeded on the basis that the national tax authority has not committed an infringement (failure to act) — that is, it has not delayed payment as regards the non-recoverable part of the value added tax ('VAT') … on the taxable persons' unpaid purchases — because when the national tax authority adopted its decision, the national legislation infringing Community law was in force and it was not until later that the Court of Justice declared that the requirement laid down in that legislation did not comply with Community law, consistent with the provisions of Community law, with the provisions of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ('the VAT Directive') (1) (having regard in particular to Article 183 thereof), and with the principles of effectiveness, direct effect and equivalence?

2. Is a practice of a Member State which, when the relevant default-interest provisions are examined, distinguishes between whether the national tax authority failed to refund the tax in compliance with the national provisions then in force — which, moreover, infringed Community law — or whether it failed to do so in breach of such provisions and which, as regards the amount of the interest accrued on the VAT whose refund could not be claimed within a reasonable period due to a national-law requirement declared contrary to EU law by the Court of Justice, sets out two definable periods, with the result that,

— in the first period, taxable persons only have the right to receive default interest at the central bank base rate, in view of the fact that since the Hungarian legislation contrary to Community law was still then in force, the Hungarian tax authorities did not act unlawfully by not authorising the payment within a reasonable period of the VAT included in the invoices, whereas

— in the second period interest double the central bank base rate — applicable moreover in the event of delay in the legal system of the Member State in question — must be paid only for the late payment of the default interest corresponding to the first period

consistent with Community law, in particular with the provisions of the VAT Directive (having regard in particular to Article 183 thereof), and with the principles of equivalence, effectiveness and proportionality?

3. Must Article 183 of the VAT Directive be interpreted as meaning that the principle of equivalence precludes a practice of a Member State pursuant to which, on the VAT not returned, the tax authority only pays interest at the central bank base (simple) rate if EU law has been infringed, whereas it pays interest equivalent to double the central bank base rate if there has been an infringement of national law?

(1) OJ 2006 L 347, p. 1.

Request for a preliminary ruling from the Tribunal Superior de Justicia de Galicia (Spain) lodged on 17 January 2018 — Cobra Servicios Auxiliares, S.A. v FOGASA, José David Sanchez Iglesias and Incatema, S.L.

(Case C-29/18)

(2018/C 142/32)

Language of the case: Spanish

Referring court

Tribunal Superior de Justicia de Galicia

Parties to the main proceedings

Appellant: Cobra Servicios Auxiliares, S.A.

Respondents: FOGASA, José David Sanchez Iglesias and Incatema, S.L.

Questions referred

(1) Must Clause 4 of the framework agreement on fixed-term work contained in the Annex to Directive 1999/70 ([1]) be interpreted as precluding national legislation which, in respect of the same set of facts (the termination of a contract for services (contrata) between the employer and a third-party undertaking at the latter's instigation), provides for a lower level of compensation for (i) termination of a fixed-term contract (contrato) for a specific task or service with a term of the same duration as that of the contract between the employer and the third-party undertaking than it does for (ii) termination of the permanent contracts of comparable workers under a collective redundancy that is justified on production-related grounds pertaining to the employer and arises from the termination of the contract between the employer and the third-party undertaking?

(2) If the answer is in the affirmative, is the unequal treatment between workers on fixed-term contracts and comparable permanent workers as regards compensation for termination of contract in cases where termination is prompted by the same factual circumstances but based on different legal grounds to be considered to constitute discrimination of the type prohibited in Article 21 of the Charter, inasmuch as it is contrary to the principles of equal treatment and non-discrimination in Articles 20 and 21 of the Charter, which form part of the general principles of EU law?

(1) Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP (OJ 1999 L 175, p. 43).