

**Request for a preliminary ruling from the Tribunal Superior de Justicia de Cataluña (Spain) lodged on 10 October 2017 — Prenatal S.A. v Tribunal Económico Administrativo Regional de Cataluña (TEARC)**

(Case C-589/17)

(2018/C 022/28)

*Language of the case: Spanish*

**Referring court**

Tribunal Superior de Justicia de Cataluña

**Parties to the main proceedings**

*Applicant:* Prenatal S.A.

*Defendant:* Tribunal Económico Administrativo Regional de Cataluña (TEARC)

**Questions referred**

- 1) Where an application for remission has been made and the Commission notifies its decision that the case has elements of fact and law similar to a previous case already resolved by the Commission or its decision that there is a comparable case pending resolution, is either of those decisions to be regarded as an act with legal content which is binding on the authorities of the Member State in which application for remission is made and is therefore open to appeal by the person seeking remission [Article 239 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code <sup>(1)</sup>] or requesting that there be no entry in the accounts (Article 220(2)(b) of the Community Customs Code)?
- 2) If it is not to be regarded as a Commission decision with binding legal content, is it then for the national authorities to evaluate whether there are comparable elements of fact or law in the case?
- 3) In the event of an affirmative reply, if that analysis has been made and led to the conclusion that such elements are not present, is it necessary to apply Article 905(1) of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code and, therefore, must the Commission issue a decision with legal content binding on those national authorities?
- 4) In the event of an affirmative reply, does the use of the term ‘the Member State’ in Article 905(1) of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code <sup>(2)</sup> mean that every authority, including the judicial authority, is under an obligation to request the Commission to take a decision?

<sup>(1)</sup> OJ 1992 L 302, p. 1.

<sup>(2)</sup> OJ 1993 L 253, p. 1.

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**Request for a preliminary ruling from the Grondwettelijk Hof (Belgium) lodged on 16 October 2017 — Belgisch Syndicaat van Chiropraxie and Others**

(Case C-597/17)

(2018/C 022/29)

*Language of the case: Dutch*

**Referring court**

Grondwettelijk Hof

**Parties to the main proceedings**

*Applicants:* Belgisch Syndicaat van Chiropraxie, Bart Vandendries, Belgische Unie van Osteopaten and Others, Plast.Surg. and Others, Belgian Society for Private Clinics and Others

*Other party:* Ministerraad

**Questions referred**

1. Should Article 132(1)(c) of Council Directive 2006/112/EC <sup>(1)</sup> of 28 November 2006 on the common system of value added tax be interpreted as meaning that that provision reserves the exemption to which it refers, in the case of both conventional and non-conventional practices, to practitioners of a medical or a paramedical profession that is subject to national legislation governing the healthcare professions and who meet the requirements laid down by that national legislation, and that persons who do not meet those requirements, but who are affiliated to a professional association of chiropractors or osteopaths and who meet the requirements laid down by that association, are excluded from that exemption?
2. Should Article 132(1)(b), (c) and (e), Article 134 and Article 98 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, read in conjunction with points 3 and 4 of Annex III to that directive, in particular from the point of view of the principle of fiscal neutrality, be interpreted as meaning:
  - (a) that they preclude a national provision which provides for a reduced rate of VAT to be applicable to medicinal products and medical aids supplied in connection with an operation or treatment of a therapeutic nature, whereas medicinal products and medical aids supplied in connection with an operation or treatment of a purely aesthetic nature, and closely related thereto, are subject to the normal rate of VAT;
  - (b) or that they permit or require equal treatment of both the aforementioned cases?
3. Is there an obligation on the Constitutional Court to maintain, on a temporary basis, the effects of the ... provisions to be annulled, as well as those of the provisions which, if necessary, must be annulled in whole or in part, if it follows from the answer to the first or the second question to be referred that those provisions are contrary to EU law, in order to enable the legislature to bring them into line with EU law?

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

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**Request for a preliminary ruling from the Gerechtshof 's-Hertogenbosch (Netherlands) lodged on  
16 October 2017 — A-Fonds v Inspecteur van de Belastingdienst**

(Case C-598/17)

(2018/C 022/30)

*Language of the case: Dutch*

**Referring court**

Gerechtshof 's-Hertogenbosch

**Parties to the main proceedings**

*Applicant:* A-Fonds

*Defendant:* Inspecteur van de Belastingdienst

**Questions referred**

- 1) Is the extension of the scope of an existing system of aid as a result of a taxable person successfully invoking the right to the free movement of capital as laid down in Article 56 of the EC Treaty (now: Article 63 TFEU) to be regarded as a new system of aid resulting from an alteration to existing aid?