

Parties to the main proceedings

Applicant: Centraal Justitieel Incassobureau, Ministerie van Veiligheid en Justitie (CJIB)

Defendant: Bank BGŻ BNP Paribas S.A. in Gdańsk

Questions referred

1. Should the provisions of Article 1(a), Article 9(3) and Article 20(1) and (2)(b) of Council Framework Decision 2005/214/JHA on the application of the principle of mutual recognition to financial penalties ⁽¹⁾ be interpreted as meaning that a decision transmitted for execution which imposes a financial penalty on a legal person should be executed in the executing State despite the fact that the national provisions implementing that framework decision do not provide for the possibility of executing a decision which imposes such a penalty on a legal person?
2. In the event of an affirmative answer to the first question, must the term 'legal person' as used in Article 1(a) and Article 9(3) of Council Framework Decision 2005/214/JHA be interpreted:
 - a. in accordance with the law of the issuing State (Article 1(c));
 - b. in accordance with the law of the executing State (Article 1(d));
 - c. as an autonomous concept of EU law,

and, as a consequence, does it also cover a branch of a legal person notwithstanding the fact that that branch does not have legal personality in the executing State?

⁽¹⁾ OJ 2005 L 76, pp 16-30.

**Request for a preliminary ruling from the Fővárosi Közigazgatási és Munkaügyi Bíróság (Hungary)
lodged on 13 March 2018 — Glencore Agriculture Hungary v Nemzeti Adó- és Vámhivatal
Fellebbviteli Igazgatósága**

(Case C-189/18)

(2018/C 221/07)

Language of the case: Hungarian

Referring court

Fővárosi Közigazgatási és Munkaügyi Bíróság

Parties to the main proceedings

Applicant: Glencore Agriculture Hungary Kft.

Defendant: Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága

Questions referred

1. Must the provisions of the VAT Directive ⁽¹⁾ and, insofar as they are concerned, the fundamental principle of respect for the rights of the defence and Article 47 of the Charter of Fundamental Rights, be interpreted as precluding the legislation of a Member State and national practice based on that legislation, under which the findings, in the context of an inspection carried out of the parties to a legal relationship (contract, transaction) to which the tax liability relates, made by the tax authorities at the conclusion of a procedure instigated in respect of one of the parties to the legal relationship (the issuer of the invoices in the main proceedings) and entailing a reclassification of that legal relationship, must be taken into account as a matter of course by the tax authorities when carrying out an inspection of another party to the legal relationship (the recipient of the invoices in the main proceedings), it being understood that the other party to the legal relationship has no rights, in particular rights attaching to the status of a party, in the original inspection procedure?

2. If the Court of Justice answers the first question in the negative, do the provisions of the VAT Directive and, insofar as they are concerned, the fundamental principle of respect for the rights of the defence and Article 47 of the Charter of Fundamental Rights, preclude national practice that allow a procedure such as that referred to in the first question whereby the other party to the legal relationship (the recipient of the invoices) does not have, in the original inspection procedure, rights attaching to the status of a party, and cannot therefore exercise any right of appeal with respect to an inspection procedure the findings of which must be taken into account as a matter of course by the tax authorities in the inspection procedure concerning the other party's tax liability and may be adopted as evidence against that other party, it being understood that the tax authorities do not make available to the other party the relevant files concerning the inspection carried out in respect of the first party to the legal relationship (the issuer of the invoices), in particular documents underpinning the findings, the reports and administrative decisions, but discloses only part of them to that other party in the form of a summary, the tax authorities thus apprising the other party of the contents of the files only indirectly, making a selection according to their own criteria, over which the other party may not exercise any control?

3. Must the provisions of the VAT directive and, insofar as they are concerned, the fundamental principle of respect for the rights of the defence and Article 47 of the Charter of Fundamental Rights, be interpreted as precluding national practice under which the findings, in the context of the inspection of the parties to a legal relationship to which the tax liability relates, made by the tax authorities at the conclusion of a procedure instigated in respect of the issuer of the invoices and including the finding that that issuer actively participated in tax evasion, must be taken into account as a matter of course by the tax authorities when carrying out an inspection in respect of the recipient of the invoices, it being understood that that recipient has no rights attaching to the status of a party in the inspection procedure carried out at the premises of the issuer of the invoices, and cannot therefore exercise any right of appeal in an inspection procedure the findings of which must be taken into account as a matter of course by the tax authorities in the inspection procedure concerning the tax liability of the recipient and may be adopted as evidence against that recipient, and that [the tax authorities] do not make available to the recipient the relevant files relating to the inspection carried out in respect of the issuer, in particular the documents underpinning the findings, the reports and administrative decisions, but disclose only part of them to the recipient in the form of a summary, the tax authorities thus apprising the recipient of the contents of the files only indirectly, making a selection according to their own criteria and over which the recipient may exercise no control?

(¹) Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1).

**Request for a preliminary ruling from the Sąd Okręgowy w Piotrkowie Trybunalskim (Poland)
lodged on 19 March 2018 — Criminal proceedings against B.S.**

(Case C-195/18)

(2018/C 221/08)

Language of the case: Polish

Referring court

Sąd Okręgowy w Piotrkowie Trybunalskim

Parties to the main proceedings

B.S.

Prokuratura Okręgowa w Piotrkowie Trybunalskim

Łódzki Urząd Celno-Skarbowy w Łodzi

Urząd Celno-Skarbowy w Piotrkowie Trybunalskim