

- 5.2. at the same time, the customer may at any time depart from the option proposed by the taxable person, which is to order the transport to the logistics company with which it maintains a contractual link, being able to entrust the transport to another carrier or personally collect the goods?

⁽¹⁾ OJ 2006 L 347, p. 1.

⁽²⁾ Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax (OJ 2010 L 268, p. 1).

**Request for a preliminary ruling from the Fővárosi Közigazgatási és Munkaügyi Bíróság (Hungary)
lodged on 16 May 2018 — Tesco-Global Áruházak Zrt. v Nemzeti Adó- és Vámhivatal Fellebbviteli
Igazgatósága**

(Case C-323/18)

(2018/C 311/04)

Language of the case: Hungarian

Referring court

Fővárosi Közigazgatási és Munkaügyi Bíróság

Parties to the main proceedings

Applicant: Tesco-Global Áruházak Zrt.

Defendant: Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága

Questions referred

1. Is the fact that taxable persons under foreign ownership which operate a number of retail establishments through a single company and which are engaged in store retail trade in fact have to pay the special tax corresponding to the highest band of a steeply progressive tax rate, whereas taxable persons under domestic ownership operating as a franchise under a single banner — through stores which generally constitute independent companies — are in fact included in the exempt band or are subject to one of the lower tax rates following that band, with the result that the proportion of the tax paid by companies under foreign ownership of the total tax collected through the special tax is substantially higher than in the case of taxable persons under domestic ownership, compatible with the provisions of the FEU Treaty governing the principles of non-discrimination (Articles 18 TFEU and 26 TFEU), freedom of establishment (Article 49 TFEU), equal treatment (Article 54 TFEU), equal treatment as regards financial participation in the capital of companies or firms within the meaning of Article 54 TFEU (Article 55 TFEU), freedom to provide services (Article 56 TFEU), free movement of capital (Articles 63 TFEU and 65 TFEU) and equality of taxation of companies (Article 110 TFEU)?
2. Is the fact that taxable persons which operate a number of retail establishments through a single company and which are engaged in store retail trade in fact have to pay the special tax corresponding to the highest band of a steeply progressive tax rate, whereas taxable persons under domestic ownership which are their direct competitors and which operate as a franchise under a single banner — through stores which generally constitute independent companies — are in fact included in the exempt band or are subject to one of the lower tax rates following that band, with the result that the proportion of the tax paid by companies under foreign ownership of the total tax collected through the special tax is substantially higher than in the case of taxable persons under domestic ownership, compatible with the provisions of the FEU Treaty governing the principle of the prohibition of State aid (Article 107(1) TFEU)?

3. Must Articles 107 TFEU and 108(3) TFEU be interpreted as meaning that their effects extend to a tax measure which is intrinsically linked to a tax exemption (constituting State aid) financed by means of the tax receipts generated by the tax measure, inasmuch as the legislature has achieved the amount of budgetary revenue forecast, which was fixed before the introduction of the special tax on retail trade (based on the turnover of market operators), through the application of a progressive tax rate based on turnover and not through the introduction of a standard tax rate, meaning that the legislation deliberately seeks to grant a tax exemption to some market operators?
4. Is a practice of the bodies of a Member State with responsibility for applying the law, whereby, during tax inspections commenced ex officio or subsequent court proceedings it is not possible — despite the principle of effectiveness and the obligation to disapply an incompatible provision of national law — to submit an application for a refund of tax set under a national tax provision which is contrary to EU law, on the ground that the tax authority or the court examines the issue of incompatibility with EU law only in special proceedings commenced on application by a party which may be brought prior to the ex officio procedure, whereas, as far as tax which has been set in breach of national law is concerned, there is nothing to prevent an application for a refund from being submitted in proceedings before the tax authority or a court, compatible with the principle of procedural equivalence and the principles of effectiveness and the primacy of EU law?

Request for a preliminary ruling from the Szekszárdi Járásbíróság (Hungary) lodged on 5 June 2018 — Ágnes Weil v Géza Gulácsi

(Case C-361/18)

(2018/C 311/05)

Language of the case: Hungarian

Referring court

Szekszárdi Járásbíróság

Parties to the main proceedings

Applicant: Ágnes Weil

Defendant: Géza Gulácsi

Questions referred

1. Is Article 53 of Regulation (EU) No 1215/2012⁽¹⁾ to be interpreted as meaning that, if requested by one of the parties, the court of the Member State that delivered the decision must issue the certificate relating to the decision automatically, without examining if [the case] falls within the scope of Regulation (EU) No 1215/2012?
2. If the answer to the first question is in the negative, is Article 1(2)(a) of Regulation (EU) No 1215/2012 to be interpreted as meaning that a repayment action between members of an unregistered non-marital partnership fall within the scope of the rights in property arising out of a relationship deemed by the law applicable to such relationship to have comparable (legal) effects to marriage?

⁽¹⁾ Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2012 L 351, p. 1).