confidential documents and information transferred may be made accessible only to such employees as require these for the purposes of performing the contract;

the contracting parties are to require those employees to maintain confidentiality in accordance with this agreement;

on request, or at the latest on termination of the cooperation between the contracting parties, all confidential data held in that connection are to be irreversibly erased or returned to the other party?


Reference for a preliminary ruling from the Juzgado de lo Mercantil No 1 de Granada (Spain) lodged on 8 March 2012 — Promociones y Construcciones BJ 200, S.L. and Others

(Case C-125/12)

(2012/C 174/22)

Language of the case: Spanish

Referring court
Juzgado de lo Mercantil No 1 de Granada

Parties to the main proceedings
Promociones y Construcciones BJ 200, S.L., Ignacio Alba Muñoz, administrator of the insolvency of Promociones y Construcciones BJ 200 S.L., and Agencia Estatal de Administración Tributaria (State tax administration)

Questions referred
1. Must Article 199(1)(g) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax be interpreted to the effect that the 'compulsory sale procedure' to which it refers includes a collective judicial insolvency procedure in which there has been a voluntary sale, unconnected with any phase of compulsory liquidation of the debtor's assets and for reasons merely of timeliness, of any one or more of its assets; or, on the contrary, does it refer only to sales ordered in enforcement proceedings intended to liquidate the assets of the judgment debtor?

2. Must Article 199(1)(g) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax be interpreted to the effect that the 'compulsory sale procedure' to which it refers includes a collective judicial insolvency procedure in which there has been a voluntary sale, unconnected with any phase of compulsory liquidation of the debtor's assets and for reasons merely of timeliness, of any one or more of its assets; or, on the contrary, does it refer only to sales ordered in enforcement proceedings intended to liquidate the assets of the judgment debtor?

3. In the latter case, if Article 199(1)(g) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax refers strictly to sales in enforcement proceedings intended to liquidate the assets of a judgment debtor, may that provision be interpreted as excluding reversal of the position regarding the taxable person for VAT purposes in any case where immovable property is transferred by a debtor declared insolvent because such transfer is timely and conducive to the interests of the insolvency and the transfer is unconnected with any procedure for liquidation of all the debtor's assets, with the result that it is necessary to disapply a national law which has extended the material scope of Article 199(1)(g) of Directive 2006/112 to cases which that provision does not contemplate?


Reference for a preliminary ruling from the Finanzgericht des Landes Sachsen-Anhalt (Germany) lodged on 8 March 2012 — Magdeburger Mühlenwerke GmbH v Finanzamt Magdeburg

(Case C-129/12)

(2012/C 174/23)

Language of the case: German

Referring court
Finanzgericht des Landes Sachsen-Anhalt

Parties to the main proceedings
Applicant: Magdeburger Mühlenwerke GmbH

Defendant: Finanzamt Magdeburg

Question referred
Did Commission Decision C(1998) 1712 of 20 May 1998 (1) grant the German legislature discretion in relation to the formulation of point 4 of the second sentence of Paragraph 2 of the Investitionszulagengesetz (‘InvZulG 1996’) (Law on investment
grants of 1996) in the version of the Steuerentlastungsgesetz 1999 (Law on tax relief of 1999) of 19 December 1998, whereby a scheme would be covered by that discretion if it promotes investments under that scheme, in relation to which the binding investment decision was made before the expiration of the period for the implementation of the Commission Decision or before the publication of the intended measures in the Bundessteuerblatt (Federal Tax Journal, ‘BStBl’), but the delivery of the capital asset and the determination and disbursement of the grant take place afterwards?


Reference for a preliminary ruling from the Tribunal Supremo (Spain) lodged on 19 March 2012 — Caixa d’Estalvis i Pensions de Barcelona v Generalidad de Cataluña

(Case C-139/12)

(2012/C 174/24)

Language of the case: Spanish

Referring court

Tribunal Supremo

Parties to the main proceedings

Applicant: Caixa d’Estalvis i Pensions de Barcelona

Defendant: Generalidad de Cataluña

Questions referred

1. Is it a requirement of Article 13B(d)(5) of Council Directive 77/388/EEC (1) of 17 May 1977 (now Council Directive 2006/112/EC of 28 November 2006) that transactions by a taxable person involving the sale of shares which amount to acquiring title to immovable property be subject to VAT and not be exempt, in view of the exception made in respect of securities giving the holder thereof de jure or de facto rights of ownership or possession over immovable property or part thereof?

2. Does Council Directive 77/388/EEC of 17 May 1977 permit a provision such as Article 108 of Spanish Law 24/1988 on the Stock Market, which provides that the acquisition of the majority of the capital of a company whose assets essentially comprise immovable property is liable to an indirect tax other than VAT, namely capital transfer duty, without regard to the possibility that the parties to the transaction may be acting in a business capacity, bearing in mind that had the immovable property been transferred directly, instead of transferring the shares or interests, the transaction would have been subject to VAT?

3. Is it compatible with the freedom of establishment under Article [43] EC (now Article 49 TFEU) and with the free movement of capital under Article 56 EC (now Article 63 TFEU) for a provision of national law such as Article 108 of the Spanish Law on the Stock Market of 28 July 1988, as amended by the 12th additional provision of Law 18/1991, to provide that duty is chargeable on the acquisition of the majority of the capital of companies whose assets essentially comprise immovable property situated in Spain, without offering the possibility of demonstrating that the company over which control is obtained is economically active?


Action brought on 29 March 2012 — European Commission v Kingdom of Spain

(Case C-151/12)

(2012/C 174/25)

Language of the case: Spanish

Parties

Applicant: European Commission (represented by: G. Valero Jordana and B. Simon, Agents)

Defendant: Kingdom of Spain

Form of order sought

— Declare that, with regard to its intracommunal river basins, the Kingdom of Spain has failed to fulfil its obligations under Articles 4(8), 7(2) and 10(1) and (2), and Sections 1.3 and 1.4 of Annex V, of Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy; (1)

— Order the Kingdom of Spain to pay the costs.

Pleas in law and main arguments

The Commission submits that the Kingdom of Spain has incorrectly transposed the provisions of Directive 2000/60/EC referred to in the form of order set out in the application, inasmuch as the Spanish legislation applies only to intercommunal river basins in Spain [whose waters flow through more than one Autonomous Community]. Consequently, those provisions have not been transposed into Spanish law as regards intracommunal river basins (whose waters flow through only one Autonomous Community).