

**Judgment of the Court (Third Chamber) of 3 May 2012  
(reference for a preliminary ruling from the First-Tier  
Tribunal (Tax Chamber) — United Kingdom) — Lebara  
Ltd v Commissioners for Her Majesty's Revenue and  
Customs**

(Case C-520/10) <sup>(1)</sup>

*(Taxation — Sixth VAT Directive — Article 2 — Supply of  
services for consideration — Telecommunications services —  
Prepaid phonecards displaying information for making inter-  
national calls — Marketing through a network of  
distributors)*

(2012/C 174/11)

Language of the case: English

**Referring court**

First Tier Tribunal (Tax Chamber)

**Parties to the main proceedings**

Applicant: Lebara Ltd

Defendant: Commissioners for Her Majesty's Revenue and  
Customs

**Re:**

Reference for a preliminary ruling — First-Tier Tribunal (Tax  
Chamber) — Interpretation of Article 2(1) of Sixth Council  
Directive 77/388/EEC of 17 May 1977 on the harmonisation  
of the laws of the Member States relating to turnover taxes —  
Common system of value added tax: uniform basis of  
assessment (OJ 1977 L 145, p. 1) — Phonecards sold by a  
taxable person residing in a Member State to a distributor  
residing in another Member State and sold on by that  
distributor to persons who use them to make telephone calls  
— Transaction which can be broken down into several parts —  
Arrangements for charging value added tax

**Operative part of the judgment**

Point (1) of Article 2 of Sixth Council Directive 77/388/EEC of 17  
May 1977 on the harmonisation of the laws of the Member States  
relating to turnover taxes — Common system of value added tax:  
uniform basis of assessment, as amended by Council Directive  
2003/92/EC of 7 October 2003, must be interpreted as meaning  
that a telecommunications services operator which offers telecommuni-  
cations services consisting in selling to a distributor phonecards which  
display all the information necessary for making international  
telephone calls by means of the infrastructure provided by that  
operator and which are resold by the distributor, in its name and  
on its own behalf, to end users, either directly or through other  
taxable persons such as wholesalers or retailers, carries out a supply  
of telecommunications services for consideration to the distributor. On  
the other hand, that operator does not carry out a second supply of

services for consideration, this time to the end user, where that user,  
having purchased the phonecard, exercises the right to make telephone  
calls using the information on the card.

<sup>(1)</sup> OJ C 30, 29.1.2011.

**Judgment of the Court (Grand Chamber) of 24 April 2012  
(reference for a preliminary ruling from the Tribunale di  
Bolzano — Italy) — Servet Kamberaj v Istituto per  
l'Edilizia sociale della Provincia autonoma di Bolzano  
(IPES), Giunta della Provincia autonoma di Bolzano,  
Provincia autonoma di Bolzano**

(Case C-571/10) <sup>(1)</sup>

*(Area of Freedom, Justice and Security — Article 34 of the  
Charter of Fundamental Rights of the European Union —  
Directive 2003/109/EC — Status of third-country nationals  
who are long-term residents — Right to equal treatment with  
regard to social security, social assistance and social protection  
— Derogation from the principle of equal treatment for social  
assistance and social protection measures — Exclusion of  
'core benefits' from the scope of that derogation —  
National legislation providing for housing benefit for low  
income tenants — Amount of funds for third-country  
nationals determined on the basis of a different weighted  
average — Rejection of an application for housing benefit  
owing to the exhaustion of the funds for third-country  
nationals)*

(2012/C 174/12)

Language of the case: Italian

**Referring court**

Tribunale di Bolzano

**Parties to the main proceedings**

Applicant: Servet Kamberaj

Defendants: Istituto per l'Edilizia sociale della Provincia  
autonoma di Bolzano (IPES), Giunta della Provincia autonoma  
di Bolzano, Provincia autonoma di Bolzano

Interveners in support of the defendants: Associazione Porte Aperte/  
Offene Türen, Human Rights International, Associazione  
Volontarius, Fondazione Alexander Langer

**Re:**

Reference for a preliminary ruling — Tribunale di Bolzano —  
Protection of linguistic minorities — Provincial legislation  
giving effect to the fundamental principle of the national consti-  
tutional system that linguistic minorities are to be protected —  
Social policy — Application of different coefficients in order to  
determine the amount intended for housing allowances for

citizens of the Union and for nationals of non-member countries — Different selection criteria applicable for the grant of the housing allowance to citizens of the Union and to nationals of non-member countries — Compatibility with Articles 2 and 6 TEU and with Articles 21 and 34 of the Charter of Fundamental Rights — Compatibility with Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (OJ 2000 L 180, p. 22) and with Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents (OJ 2003 L 16, p. 44) — Direct applicability of provisions of EU law — Compatibility with Article 14 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (‘the ECHR’) and Article 1 of Protocol No 12 thereto — Direct applicability of the ECHR pursuant to Article 6 TEU — Applicable sanctions for the purpose of Article 15 of Directive 2000/43/EC

### Operative part of the judgment

1. *The first and fourth to seventh questions referred by the Tribunale di Bolzano in Case C-571/10 are inadmissible.*
2. *The reference made by Article 6(3) TEU to the European Convention for the Protection of Human Rights and Fundamental Freedoms, signed at Rome on 4 November 1950, does not require the national court, in case of conflict between a provision of national law and that convention, to apply the provisions of that convention directly, disapplying the provision of domestic law incompatible with the convention.*
3. *Article 11(1)(d) of Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents must be interpreted as precluding a national or regional law, such as that at issue in the main proceedings, which provides, with regard to the grant of housing benefit, for different treatment for third country nationals enjoying the status of long-term resident conferred pursuant to the provisions of that directive compared to that accorded to nationals residing in the same province or region when the funds for the benefit are allocated, in so far as such a benefit falls within one of the three categories referred to in that provision and Article 11(4) of that directive does not apply.*

**Judgment of the Court (Third Chamber) of 26 April 2012 (reference for a preliminary ruling from the Hoge Raad der Nederlanden — Netherlands) — Staatssecretaris van Financiën v L.A.C. van Putten (C-578/10), P. Mook (C-579/10), G. Frank (C-580/10)**

(Joined Cases C-578/10 to C-580/10) <sup>(1)</sup>

**(Articles 18 EC and 56 EC — Motor vehicles — Use in a Member State of a borrowed private motor vehicle which is registered in another Member State — Taxation of that vehicle in the first Member State on its first use on the national road network)**

(2012/C 174/13)

Language of the case: Dutch

### Referring court

Hoge Raad der Nederlanden

### Parties to the main proceedings

Applicant: Staatssecretaris van Financiën

Defendants: L.A.C. van Putten (C-578/10), P. Mook (C-579/10), G. Frank (C-580/10)

### Re:

Reference for a preliminary ruling — Hoge Raad der Nederlanden — Interpretation of Article 18 EC (now Article 21 TFEU) — National rule imposing a registration tax on the first use of a vehicle on the national road network — Liability to tax of a person residing in the Member State in question who has borrowed a vehicle registered in another Member State from a person residing in that State for the purposes of private use for a brief period in the first Member State

### Operative part of the judgment

Article 56 EC must be interpreted as meaning that it precludes legislation of a Member State which requires residents who have borrowed a vehicle registered in another Member State from a resident of that State to pay, on first use of that vehicle on the national road network, the full amount of a tax normally due on registration of a vehicle in the first Member State, without taking account of the duration of the use of that vehicle on that road network and without that person being able to invoke a right to exemption or reimbursement where that vehicle is neither intended to be used essentially in the first Member State on a permanent basis nor, in fact, used in that way.

<sup>(1)</sup> OJ C 46, 12.2.2011.

<sup>(1)</sup> OJ C 72, 5.3.2011.