

Reference for a preliminary ruling from the Bundesfinanzhof (Germany) lodged on 17 February 2010 — Finanzamt Essen-NordOst v GFKL Financial Services AG

(Case C-93/10)

(2010/C 134/27)

Language of the case: German

Referring court

Bundesfinanzhof

Parties to the main proceedings

Appellant: Finanzamt Essen-NordOst

Respondent: GFKL Financial Services AG

Questions referred

1. For the interpretation of Article 2(1) and Article 4 of the Sixth Council Directive of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes (77/388/EEC):

Does the sale (purchase) of defaulted debts constitute, on account of the assumption of responsibility for debt recovery and the risk of loss, a service for consideration and an economic activity on the part of the purchaser of the debts even if the purchase price

— is not based on the face value of the debts, with a flat-rate reduction agreed for the assumption of responsibility for debt recovery and the risk of loss, but

— is set by reference to the risk of loss estimated for the debt concerned, with only secondary importance attached to the recovery of the debt compared to the reduction for the risk of loss?

2. If the answer to Question 1 is in the affirmative, for the interpretation of Article 13B(d)(2) and (3) of the Sixth Council Directive of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes (77/388/EEC):

(a) Is the assumption of the risk of loss by the purchaser of defaulted debts at a purchase price significantly lower than their face value exempt from tax, as being the provision of a different security or guarantee?

(b) If the assumption of the risk is exempt from tax, is the recovery of the debts exempt from tax, as part of a single service or as an ancillary service, or taxable as a separate service?

3. If the answer to Question 1 is in the affirmative and no exempt service has been supplied, for the interpretation of Article 11A(a) of the Sixth Council Directive of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes (77/388/EEC):

Is the consideration for the taxable service determined by the recovery costs presumed by the parties or by the actual recovery costs?

Reference for a preliminary ruling from the Oberste Berufungs- und Disziplinarkommission (Austria) lodged on 23 February 2010 — Gentcho Pavlov and Gregor Famira v Ausschuss der Rechtsanwaltskammer Wien

(Case C-101/10)

(2010/C 134/28)

Language of the case: German

Referring court

Oberste Berufungs- und Disziplinarkommission

Parties to the main proceedings

Applicants: Gentcho Pavlov and Gregor Famira

Defendant: Ausschuss der Rechtsanwaltskammer Wien

Questions referred

1. Should Article 38(1) of the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Bulgaria, of the other part, ⁽¹⁾ have been directly applied in the period from 2 January 2004 to 31 December 2006 in a procedure to register a Bulgarian national in the list of trainee lawyers?

If question 1 is answered in the affirmative: