

**Reference for a preliminary ruling from the Finanzgericht Hamburg (Germany) lodged on 6 May 2010 — ADV Allround Vermittlungs AG in liquidation v Finanzamt Hamburg-Bergedorf**

(Case C-218/10)

(2010/C 221/25)

*Language of the case: German*

**Referring court**

Finanzgericht Hamburg

**Parties to the main proceedings**

*Applicant:* ADV Allround Vermittlungs AG in liquidation

*Defendant:* Finanzamt Hamburg-Bergedorf

**Questions referred**

1. Is the sixth indent of Article 9(2)(e) 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 ('Directive 77/388')<sup>(1)</sup> [subsequently, Article 56(1)(f) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, in the version in force until 31 December 2009 ('Directive 2006/112')] to be interpreted as meaning that 'supply of staff' also includes the supply of self-employed persons not in the employ of the trader providing the service?
2. Are Articles 17(1), 17(2)(a), 17(3)(a) and 18(1)(a) of Directive 77/388 [now Articles 167, 168(a), 169(a) and 178(a) of Directive 2006/112] to be interpreted as meaning that provision must be made in national procedural law to ensure that the taxability and liability to tax of one and the same service are assessed in the same way in relation to the trader providing the service and the trader receiving it, even where the two traders fall within the jurisdiction of different tax authorities?

Only if the answer to Question 2 is in the affirmative:

3. Are Articles 17(1), 17(2)(a), 17(3)(a) and 18(1)(a) of Directive 77/388 [now Articles 167, 168(a), 169(a) and

178(a) of Directive 2006/112] to be interpreted as meaning that the period within which the recipient of a service may apply for a deduction of the input tax connected with the service received must not expire before a decision on taxability and liability to tax which is binding on the trader providing the service has been adopted?

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<sup>(1)</sup> OJ 1977 L 145, p. 1.

**Reference for a preliminary ruling from the Landgericht Baden-Baden (Germany) lodged on 10 May 2010 — Staatsanwaltschaft Baden-Baden v Leo Apelt**

(Case C-224/10)

(2010/C 221/26)

*Language of the case: German*

**Referring court**

Landgericht Baden-Baden

**Parties to the main proceedings**

*Applicant:* Staatsanwaltschaft Baden-Baden

*Defendant:* Leo Apelt

**Questions referred**

1. With due regard for Article 5(1)(a) of Directive 91/439/EEC<sup>(1)</sup>, which provides for licences for category D to be issued only to drivers already entitled to drive vehicles in category B, may a Member State refuse, in accordance with Article 1 and Article 8(2) and (4) of that Directive, to recognise the validity of a driving licence issued by another Member State for categories B and D — particularly with respect to category D — if the holder of that driving licence was granted the right to drive vehicles in category B before the right to drive was withdrawn by a court in the first Member State, whereas the right to drive vehicles in category D was not granted until after that withdrawal and after the expiry of the period simultaneously set before a new licence might be issued?

2. If the first question is answered in the negative:

May the first Member State refuse to recognise the aforementioned driving licence — particularly with respect to the right to drive vehicles in category D — in application of Article 11(4) of Directive 2006/126/EC<sup>(?)</sup>, according to which a Member State is required to refuse to recognise the validity of a driving licence issued by another Member State to a person whose driving licence has been withdrawn in the territory of the former Member State, if the right to drive vehicles in category B was granted on 1 March 2006 and the right to right to drive vehicles in category D was granted on 30 April 2007 and the driving licence was issued on the latter date?

<sup>(1)</sup> Council Directive 91/439/EEC of 29 July 1991 on driving licences (OJ 1991 L 237, p. 1).

<sup>(2)</sup> Directive 2006/126/EC of the European Parliament and of the Council of 20 December 2006 on driving licences (OJ 2006 L 403, p. 18).

**Reference for a preliminary ruling from the Sozialgericht Nürnberg (Germany) lodged on 10 May 2010 — Juan Pérez García, José Arias Neira, Fernando Barrera Castro, Dolores Verdun Espinosa, successor to José Bernal Fernández v Familienkasse Nürnberg**

(Case C-225/10)

(2010/C 221/27)

*Language of the case: German*

#### Referring court

Sozialgericht Nürnberg

#### Parties to the main proceedings

*Applicants:* Juan Pérez García, José Arias Neira, Fernando Barrera Castro, Dolores Verdun Espinosa, successor to José Bernal Fernández

*Defendant:* Familienkasse Nürnberg

#### Questions referred

1. Is Article 77(2)(b)(i) of Regulation (EEC) No 1408/71<sup>(1)</sup> to be interpreted as meaning that family allowances need not be granted by the former State of employment to persons

who receive pensions for old age, invalidity or an accident at work or occupational disease under the legislation of more than one Member State and whose pension entitlement is based on the legislation of the former State of employment (national pension entitlement) if provision is made in the State of residence for a comparable, higher benefit, which is, however, incompatible with another benefit for which the person concerned, having been given the choice, has opted?

2. Is Article 78(2)(b)(i) of Regulation (EEC) No 1408/71 to be interpreted as meaning that family allowances for orphans of a deceased employed or self-employed person who was subject to the legislation of several Member States and who enjoyed a notional entitlement to an orphan's pension based on the legislation of the former State of employment (potential national pension entitlement) need not be granted by the former State of employment if provision is made in the State of residence for a comparable, higher benefit, which is, however, incompatible with another benefit for which the person concerned, having been given a choice, has opted?

3. Does the same apply to a benefit under Article 77 or Article 78 of Regulation (EEC) No 1408/71 for which provision is generally made in the children's State of residence, but for which the person concerned, as someone who is not being given a choice, cannot opt?

<sup>(1)</sup> Regulation (EEC) No 1408/71 of the Council of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community (OJ 1971 L 149, p. 2)

**Reference for a preliminary ruling from the Tribunal de Grande Instance de Nanterre (France) lodged on 12 May 2010 — Tereos v Directeur général des douanes et droits indirects Receveur principal des douanes et droits indirects de Gennevilliers**

(Case C-234/10)

(2010/C 221/28)

*Language of the case: French*

#### Referring court

Tribunal de Grande Instance de Nanterre