

### Operative part of the judgment

Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP, and the Framework Agreement on fixed-term work, concluded on 18 March 1999, set out in the Annex to that directive, must be interpreted as not applying either to the fixed-term employment relationship between a temporary worker and a temporary employment business or to the employment relationship between such a worker and a user undertaking.

<sup>(1)</sup> OJ C 243, 11.8.2012.

### Order of the Court (Third Chamber Chamber) of 21 March 2013 — (request for a preliminary ruling from the Giudice di pace di Lecce — Italy) — Criminal proceedings against Abdoul Khadre Mbaye

(Case C-522/11) <sup>(1)</sup>

*(Article 99 of the Rules of Procedure — Area of freedom, security and justice — Directive 2008/115/EC — Common standards and procedures for returning illegally staying third-country nationals — National legislation penalising illegal residence by criminal sanctions)*

(2013/C 156/25)

Language of the case: Italian

#### Referring court

Giudice di pace di Lecce

#### Criminal proceedings against

Abdoul Khadre Mbaye

#### Re:

Request for a preliminary ruling — Ufficio del Giudice di Pace Lecce — Interpretation of Articles 2(2)(b), 6, 7 and 8 of Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ 2008 L 348, p. 98) — National legislation providing for a fine of between EUR 5 000 and EUR 10 000 for a foreign national who has illegally entered or illegally stayed on the national territory — Whether a criminal offence of illegal residence is permissible — Whether immediate expulsion for a period of at least five years, as an alternative to a fine, is permissible

#### Operative part of the order

1. *Third-country nationals prosecuted for or convicted of the offence of illegal residence provided for in the legislation of a Member State cannot, on account solely of that offence of illegal residence, be excluded from the scope of Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008*

*on common standards and procedures in Member States for returning illegally staying third-country nationals, pursuant to Article 2(2)(b) of that directive.*

2. *Directive 2008/115 does not preclude legislation of a Member State, such as that at issue in the main proceedings, penalising the illegal residence of third-country nationals by a fine which may be replaced by expulsion. However, it is only possible to have recourse to that option to replace the fine where the situation of the person concerned corresponds to one of those referred to in Article 7(4) of that directive.*

<sup>(1)</sup> OJ C 370, 17.12.2011.

### Order of the Court (Eighth Chamber) of 21 March 2013 (request for a preliminary ruling from the Administrativen sad — Varna — Bulgaria) — Sani Treyd EOOD v Direktor na Direktsia 'Obzhalvane I upravlenie na izpalnenieto' — Varna pri Tsentralno upravlenie na Natsionalnata agentsia za prihodite

(Case C-153/12) <sup>(1)</sup>

*(Article 99 of the Rules of Procedure — VAT — Directive 2006/112/EC — Articles 62, 63, 65, 73 and 80 — Establishment of a building right by natural persons who are neither taxable persons nor persons liable for payment in favour of a company in exchange for the construction of immovable property by that company for those natural persons — Barter contract — VAT on supplies relating to the construction of the immovable property — Chargeable event — When chargeable — Payment on account of the entire consideration — Payment on account — Basis of assessment in the event of consideration in the form of goods or services)*

(2013/C 156/26)

Language of the case: Bulgarian

#### Referring court

Administrativen sad

#### Parties to the main proceedings

Applicant: Sani Treyd EOOD

Defendant: Direktor na Direktsia 'Obzhalvane I upravlenie na izpalnenieto' — Varna pri Tsentralno upravlenie na Natsionalnata agentsia za prihodite

#### Re:

Request for a preliminary ruling — Administrativen sad — Varna — Interpretation of Articles 62(1), 63, 73 and 80 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1) — National legislation providing that any supply of goods or