

Judgment of the Court (Eighth Chamber) of 21 February 2013 (request for a preliminary ruling from the Curtea de Apel Alba Iulia — Romania) — SC Mora IPR SRL v Direcția Generală a Finanțelor Publice Sibiu, Direcția Județeană pentru Accize și Operațiuni Vamale Sibiu

(Case C-79/12) ⁽¹⁾

(Taxation — VAT — Directive 2006/112/EC — Article 211 — Deferred payment of VAT on importation)

(2013/C 114/28)

Language of the case: Romanian

Referring court

Curtea de Apel Alba Iulia

Parties to the main proceedings

Applicant: SC Mora IPR SRL

Defendant: Direcția Generală a Finanțelor Publice Sibiu, Direcția Județeană pentru Accize și Operațiuni Vamale Sibiu

Re:

Request for a preliminary ruling — Curtea de Apel Alba Iulia — Interpretation of Article 211 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1) — Interpretation of Articles 26(2), 28, 30 and 107 TFEU — Right of Member States to authorise deferment of VAT on importation — Whether it is permissible for national legislation to impose a condition for obtaining a payment deferment certificate, not provided for under the Directive — Later legislative amendments exempting only certain taxable persons from payment of VAT on importation — Discrimination — Breach of the prohibition on import duties

Operative part of the judgment

Article 211 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as meaning that it does not preclude the application of legislative rules of a Member State, such as those at issue in the main proceedings, which make the deferred payment of value added tax due on imported goods conditional on obtaining a certificate that is not required under the wording of that directive, provided that the conditions for obtaining such a certificate comply with the principle of fiscal neutrality, which it is for the national court to ascertain.

⁽¹⁾ OJ C 126, 28.4.2012.

Judgment of the Court (First Chamber) of 21 February 2013 (request for a preliminary ruling from the Bundesfinanzhof — Germany) — Finanzamt Köln-Nord v Wolfram Becker

(Case C-104/12) ⁽¹⁾

(Sixth VAT Directive — Article 17(2)(a) — Right to deduct input tax — Need for a direct and immediate link between an input and an output transaction — Criterion for determining that link — Services of lawyers performed in the context of criminal proceedings for corruption brought in a personal capacity against the managing director and main partner of a limited company)

(2013/C 114/29)

Language of the case: German

Referring court

Bundesfinanzhof

Parties to the main proceedings

Applicant: Finanzamt Köln-Nord

Defendant: Wolfram Becker

Re:

Request for a preliminary ruling — Bundesfinanzhof — Interpretation of Articles 17(2)(a) and 22(3)(b) 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) — Creation and extent of the right to deduct — Need for a direct and immediate link between the economic activity of the taxable person and the supply of a service — Services provided by lawyers in the context of criminal proceedings relating to corruption charges brought against the managing director and principal executive officer of a public limited company

Operative part of the judgment

The existence of a direct and immediate link between a given transaction and the taxable person's activity as a whole for the purposes of determining whether the goods and services were used by the latter 'for the purposes of taxable transactions' within the meaning of Article 17(2)(a) of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization 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 2001/115/EC of 20 December 2001, depends on the objective content of the goods or services acquired by that taxable person.

In this case, the supplies of lawyers' services, whose purpose is to avoid criminal penalties against natural persons, managing directors of a taxable undertaking, do not give that undertaking the right to deduct as input tax the VAT due on the services supplied.

⁽¹⁾ OJ C 138, 12.5.2012.

Judgment of the Court (Fifth Chamber) of 21 February 2013 (request for a preliminary ruling from the Consiglio di Stato — Italy) — Ministero per i beni e le attività culturali and Others v Ordine degli Ingegneri di Verona e Provincia and Others

(Case C-111/12) ⁽¹⁾

(Directive 85/384/EEC — Mutual recognition of qualifications in the field of architecture — Articles 10 and 11(g) — National legislation recognising equivalence of qualifications in architecture and civil engineering, but reserving work on classified heritage buildings to architects — Principle of equal treatment — Situation purely internal to a Member State)

(2013/C 114/30)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Applicants: Ministero per i beni e le attività culturali, Ordine degli Ingegneri della Provincia di Venezia, Ordine degli Ingegneri della Provincia di Padova, Ordine degli Ingegneri della Provincia di Treviso, Ordine degli Ingegneri della Provincia di Vicenza, Ordine degli Ingegneri della Provincia di Verona, Ordine degli Ingegneri della Provincia di Rovigo, Ordine degli Ingegneri della Provincia di Belluno

Defendants: Ordine degli Ingegneri di Verona e Provincia, Consiglio Nazionale degli Ingegneri, Consiglio Nazionale degli Architetti, Pianificatori, Paesaggisti e Conservatori, Ordine degli Architetti, Pianificatori, Paesaggisti e Conservatori della Provincia di Verona, Alessandro Mosconi, Comune di San Martino Buon Albergo, Istituzione di Ricovero e di Educazione di Venezia (IRE), Ordine degli Architetti della Provincia di Venezia

Re:

Request for a preliminary ruling — Consiglio di Stato — Interpretation of Articles 10 and 11 of Council Directive

85/384/EEC of 10 June 1985 on the mutual recognition of diplomas, certificates and other evidence of formal qualifications in architecture, including measures to facilitate the effective exercise of the right of establishment and freedom to provide services (OJ 1985 L 223, p. 15) — Mutual recognition of qualifications in the architectural sector — National legislation which reserves to architects alone the right to carry out work on buildings designated as artistic cultural assets — Examination, on a case-by-case basis, of the suitability of those holding architectural and engineering qualifications obtained in other Member States to carry out such work

Operative part of the judgment

Articles 10 and 11 of Council Directive 85/384/EEC of 10 June 1985 on the mutual recognition of diplomas, certificates and other evidence of formal qualifications in architecture, including measures to facilitate the effective exercise of the right of establishment and freedom to provide services must be interpreted as precluding a national provision in accordance with which persons holding a qualification issued by a Member State other than the host Member State enabling the holder to take up activities in the field of architecture and expressly referred to in Article 11 thereof, may exercise, in that latter Member State, activities relating to buildings of artistic interest only in so far as they show, where necessary by way of a specific examination of their professional suitability, that they have special qualifications in the field of cultural assets.

⁽¹⁾ OJ C 151, 26.5.2012.

Judgment of the Court (Second Chamber) of 28 February 2013 — Ellinika Nafpigia AE v European Commission

(Case C-246/12 P) ⁽¹⁾

(Appeal — State aid — Shipbuilding — Decision declaring aid measures incompatible with the common market — Protection of the essential interests of national security — Competition conditions in the internal market)

(2013/C 114/31)

Language of the case: Greek

Parties

Appellant: Ellinika Nafpigia AE (represented by: I. Drosos and V. Karagiannis, dikigori)

Other party to the proceedings: European Commission (represented by: C. Urraca Caviedes and M. Konstantinidis, Agents)