

**Parties to the main proceedings**

*Applicant:* Michael Schwarz

*Defendant:* Stadt Bochum

**Re:**

Request for a preliminary ruling — Verwaltungsgericht Gelsenkirchen — Validity of Article 1(2) of Council Regulation (EC) No 2252/2004 of 13 December 2004 on standards for security features and biometrics in passports and travel documents issued by Member States (OJ 2004 L 385, p. 1), as amended by Regulation (EC) No 444/2009 of the European Parliament and of the Council of 6 May 2009 (OJ 2009 L 142, p. 1), as amended (OJ 2009 L 188, p. 127), in the light of Article 8 of the Charter of Fundamental Rights and Article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms — Right of a person to be issued with a passport without his fingerprints being taken

**Operative part of the judgment**

*Examination of the question referred has revealed nothing capable of affecting the validity of Article 1(2) of Council Regulation (EC) No 2252/2004 of 13 December 2004 on standards for security features and biometrics in passports and travel documents issued by Member States, as amended by Regulation (EC) No 444/2009 of the European Parliament and of the Council of 6 May 2009.*

<sup>(1)</sup> OJ C 273, 8.9.2012.

**Judgment of the Court (Eighth Chamber) of 17 October 2013 — European Commission v Italian Republic**

(Case C-344/12) <sup>(1)</sup>

*(Failure of a Member State to fulfil obligations — State aid — Aid granted by the Italian Republic for the benefit of Alcoa Trasformazioni — Commission Decision 2010/460/EC declaring that aid to be incompatible and ordering its recovery — Failure to implement within the prescribed period)*

(2013/C 367/30)

*Language of the case: Italian*

**Parties**

*Applicant:* European Commission (represented by: G. Conte and D. Grespan, acting as Agents)

*Defendant:* Italian Republic (represented by: G. Palmieri, acting as Agent, and C. Gerardis, avvocato dello Stato)

**Re:**

Failure of a Member State to fulfil obligations — Failure to have adopted the necessary measures to comply with Articles 2, 3 and 4 of Commission Decision C(2009) 8112 final of 19 November 2009, concerning State aids C 38/A/2004 (ex NN 58/2004) and C 36/B/2006 (ex NN 38/2006), implemented by the Italian Republic for Alcoa Trasformazioni srl, and infringement of Article 288 TFEU

**Operative part of the judgment**

*The Court:*

1. Declares that, by not adopting within the prescribed period all the measures necessary to recover from the beneficiary of the State aid declared to be unlawful and incompatible with the common market under Article 1 of Commission Decision 2010/460/EC of 19 November 2009 concerning State aids Nos C 38/A/2004 (ex NN 58/2004) and C 36/B/2006 (ex NN 38/2006) implemented by Italy for Alcoa Trasformazioni, the Italian Republic has failed to fulfil its obligations under Articles 2, 3 and 4 of that decision
2. Orders the Italian Republic to pay the costs.

<sup>(1)</sup> OJ C 287, 22.9.2012

**Judgment of the Court (Third Chamber) of 17 October 2013 (request for a preliminary ruling from the Bundesgerichtshof — Germany) — RLvS Verlagsgesellschaft mbH v Stuttgarter Wochenblatt GmbH**

(Case C-391/12) <sup>(1)</sup>

*(Directive 2005/29/EC — Unfair commercial practices — Scope ratione personae — Misleading omissions in advertisements — Legislation of a Member State prohibiting any publication for remuneration not identified by the term ‘advertisement’ (‘Anzeige’) — Complete harmonisation — Stricter measures — Freedom of the press)*

(2013/C 367/31)

*Language of the case: German*

**Referring court**

Bundesgerichtshof

**Parties to the main proceedings**

*Applicant:* RLvS Verlagsgesellschaft mbH

*Defendant:* Stuttgarter Wochenblatt GmbH

**Re:**

Request for a preliminary ruling — Bundesgerichtshof — Interpretation of Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council (OJ 2005 L 149, p. 22), and in particular Articles 3(5), 4 and 7(2) thereof and point 11 of Annex I thereto — Misleading omissions in editorial-style advertising — Legislation of a Member State prohibiting a publication for remuneration which does not mention that it is an ‘advertisement’ (‘Anzeige’)

### Operative part of the judgment

In circumstances such as those of the main proceedings, Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('the Unfair Commercial Practices Directive') may not be relied on as against newspaper publishers, with the result that, in those circumstances, that directive must be interpreted as not precluding the application of a national provision under which those publishers are required to identify specifically, in this case through the use of the term 'advertisement' ('Anzeige'), any publication in their periodicals for which they receive remuneration, unless it is already evident from the arrangement and layout of the publication that it is an advertisement.

<sup>(1)</sup> OJ C 343, 10.11.2012.

**Judgment of the Court (Tenth Chamber) of 24 October 2013 (request for a preliminary ruling from the Înalta Curte de Casație și Justiție — Romania) — Agenția Națională de Administrare Fiscală v SC Rafinăria Steaua Română SA**

(Case C-431/12) <sup>(1)</sup>

**(Taxation — Value added tax — Refund of excess VAT by set-off — Annulment of set-off decision — Obligation to pay default interest to the taxable person)**

(2013/C 367/32)

Language of the case: Romanian

#### Referring court

Înalta Curte de Casație și Justiție

#### Parties to the main proceedings

Applicant: Agenția Națională de Administrare Fiscală

Defendant: SC Rafinăria Steaua Română SA

#### Re:

Request for a preliminary ruling — Înalta Curte de Casație și Justiție — Interpretation of Article 183 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1) — Refund of excess VAT by set-off — Obligation on the tax authorities to pay default interest where the set-off decisions are annulled by a court

#### Operative part of the judgment

Article 183 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as precluding a situation in which a taxable person, having made a

claim for refund of excess input value added tax over the value added tax which it is liable to pay, cannot obtain from the tax authorities of a Member State default interest on a refund made late by those authorities in respect of a period during which administrative measures precluding the refund, which were subsequently annulled by a court ruling, were in force.

<sup>(1)</sup> OJ C 399, 22.12.2012.

**Judgment of the Court (First Chamber) of 24 October 2013 (request for a preliminary ruling from the Finanzgericht Hamburg — Germany) — Metropol Spielstätten Unternehmergeellschaft (haftungsbeschränkt) v Finanzamt Hamburg-Bergedorf**

(Case C-440/12) <sup>(1)</sup>

**(Taxation — VAT — Betting and gaming — Legislation of a Member State under which VAT and a special tax are to be levied cumulatively on the operation of low-prize slot machines — Whether permissible — Basis of assessment — Whether the taxable person can pass on the VAT)**

(2013/C 367/33)

Language of the case: German

#### Referring court

Finanzgericht Hamburg

#### Parties to the main proceedings

Applicant: Metropol Spielstätten Unternehmergeellschaft (haftungsbeschränkt)

Defendant: Finanzamt Hamburg-Bergedorf

#### Re:

Request for a preliminary ruling — Finanzgericht Hamburg — Interpretation of the first sentence of Article 1(2), Article 73, Article 135(1)(i) and Article 401 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1) — Taxation of betting and gaming — Legislation of a Member State under which VAT and a special tax are to be levied cumulatively on the operation of low-prize slot machines

#### Operative part of the judgment

1. Article 401 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, read in conjunction with Article 135(1)(i) thereof, must be interpreted as meaning that value added tax and a special national tax on games of chance may be levied cumulatively, provided that the special national tax cannot be characterised as a tax on turnover;