

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.

(¹) 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) (¹)

(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.

(¹) 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) (¹)

(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;