

Parties to the main proceedings

Applicant: Posteshop SpA — Divisione Franchising Kipoint

Defendants: Autorità Garante della Concorrenza e del Mercato, Presidenza del Consiglio dei Ministri

Interveners: Cg srl, Tacoma srl

Re:

Request for a preliminary ruling — Consiglio di Stato — Interpretation of Directive 2006/114/EC of the European Parliament and of the Council of 12 December 2006 concerning misleading and comparative advertising (OJ 2006 L 376, p. 21) — Unfair business practices between traders — Concept of ‘misleading advertising and comparative advertising’ — National legislation which not only prohibits advertising that is at the same time misleading and based on unlawful comparison but also provides that misleading advertising and comparative advertising are two separate offences.

Operative part of the judgment

With regard to the protection afforded to traders, Directive 2006/114/EC of the European Parliament and of the Council of 12 December 2006 concerning misleading and comparative advertising is to be interpreted as referring to misleading advertising and unlawful comparative advertising as two independent infringements and to the effect that, in order to prohibit and penalise misleading advertising, it is not necessary that that latter at the same time should constitute unlawful comparative advertising.

⁽¹⁾ OJ C 123, 27.4.2013.

Judgment of the Court (Second Chamber) of 13 March 2014 (request for a preliminary ruling from the Administrativen sad Veliko Tarnovo — Bulgaria) — FIRIN OOD v Direktor na Direktsia ‘Obzhalvane i danachno-osiguritelna praktika’ Veliko Tarnovo pri Tsentralno upravlenie na Natsionalnata agentsia za prihodite

(Case C-107/13) ⁽¹⁾

(Common system of value added tax — Deduction of input tax paid — Payments made on account — Refusal to allow the deduction — Fraud — Adjustment of the deduction in the case where the taxable transaction is not carried out — Conditions)

(2014/C 135/15)

Language of the case: Bulgarian

Referring court

Administrativen sad Veliko Tarnovo

Parties to the main proceedings

Applicant: FIRIN OOD

Defendant: Direktor na Direktsia ‘Obzhalvane i danachno-osiguritelna praktika’ Veliko Tarnovo pri Tsentralno upravlenie na Natsionalnata agentsia za prihodite

Re:

Request for a preliminary ruling — Administrativen sad Veliko Tarnovo — Interpretation of Article 168(a), read in conjunction with Articles 65, 90(1) and 185(1), and of Article 205, read in conjunction with Articles 168(a) and 193, of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1) — Principles of the neutrality of VAT, effectiveness and proportionality — Deduction of input tax paid — Payment made on account in respect of precisely identified goods prior to the supply — Refusal to allow the deduction at the time of receipt of the payment on account since supply not made — Possibility for the supplier to adjust the deduction initially made and impact on the refusal to allow such a deduction — Refusal to allow the recipient of a supply to deduct VAT because of the joint and several liability for payment of the tax of a taxable person other than the person liable — Designation of the person jointly and severally liable on the basis of presumptions founded on established precepts of civil law.

Operative part of the judgment

Articles 65, 90(1), 168(a), 185(1) and 193 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as requiring that the deduction of value added tax made by the recipient of an invoice drawn up with a view to a payment being made on account in relation to the supply of goods be adjusted where, in circumstances such as those in the main proceedings, that supply is ultimately not made, even if the supplier remains liable for that tax and has not refunded the payment made on account.

(¹) OJ C 129, 4.5.2013.

Judgment of the Court (Sixth Chamber) of 13 March 2014 (request for a preliminary ruling from the Landgericht Köln — Germany) — Zentrale zur Bekämpfung unlauteren Wettbewerbs eV v ILME GmbH

(Case C-132/13) (¹)

(Request for a preliminary ruling — Approximation of laws — Directive 2006/95/EC — Definition of 'electrical equipment' — CE conformity marking — Housing for multipole electrical connectors)

(2014/C 135/16)

Language of the case: German

Referring court

Landgericht Köln

Parties to the main proceedings

Applicant: Zentrale zur Bekämpfung unlauteren Wettbewerbs eV

Defendant: ILME GmbH

Re:

Request for a preliminary ruling — Landgericht Köln — Interpretation of Articles 1, 8 and 10 of, and Annexes II to IV to, Directive 2006/95/EC of the European Parliament and of the Council of 12 December 2006 on the harmonisation of the laws of Member States relating to electrical equipment designed for use within certain voltage limits (OJ 2006 L 374, p. 10) — Notion of 'electrical equipment' — Prohibition of affixing the 'CE' conformity marking to the housings of multipole connectors sold as separate parts.

Operative part of the judgment

Article 1 of Directive 2006/95/EC of the European Parliament and of the Council of 12 December 2006 on the harmonisation of the laws of Member States relating to electrical equipment designed for use within certain voltage limits must be interpreted as meaning that housing for multipole connectors for industrial use, such as those at issue in the main proceedings, is covered by the definition of 'electrical equipment' for the purposes of that provision and must, therefore, bear the CE marking as long as its proper incorporation and use for the purpose for which it was made does not mean that it ceases to comply with the relevant safety requirements for which it has been examined.

(¹) OJ C 164, 8.6.2013.