

Parties to the main proceedings

Applicant: 'Koela-N' EOOD

Defendant: Direktor na Direktsia 'Obzhalvane i danachno-osiguritelna praktika' Varna pri Tsentralno upravlenie na Natsionalnata agentsia za prihodite

Questions referred

1. Is Article 14(1) of Council Directive 2006/112/EC ⁽¹⁾ of 28 November 2006 on the common system of value added tax to be interpreted as meaning that the ability to dispose of tangible property as owner also includes the right to instruct a carrier to deliver the goods to a third person other than the intended recipient stated on the invoice, and, on that basis, the receipt of the goods by that person on its own constitutes proof of previously effected supplies of goods?
2. Is Article 14(1) of Directive 2006/112 to be interpreted as meaning that the fact that the goods are not actually in the possession of the direct supplier — regardless of whether the buyer has received the goods — means that the conditions for the existence of a supply under the directive are not satisfied?
3. Do the fact that the upstream suppliers in the supply chain have not assisted the tax authorities and the non-loading of the goods constitute objective grounds from which it may be inferred that the taxable person knew, or ought to have known, that the transaction relied on as a basis for the right to deduct is connected with tax fraud?

⁽¹⁾ OJ 2006 L 347, p. 1.

Request for a preliminary ruling from the Varas Cíveis de Lisboa (5^a Vara Cível) (Portugal) lodged on 4 April 2014 — João Filipe Ferreira da Silva e Brito and Others v Portuguese State

(Case C-160/14)

(2014/C 175/37)

Language of the case: Portuguese

Referring court

Varas Cíveis de Lisboa

Parties to the main proceedings

Applicants: João Filipe Ferreira da Silva e Brito and Others

Defendant: Portuguese State

Questions referred

1. Must Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses, ⁽¹⁾ in particular Article 1(1) thereof, be interpreted as meaning that the concept of a 'transfer of a business' encompasses a situation in which an undertaking active on the charter flights market is wound up by decision of its majority shareholder, itself an undertaking active in the aviation sector and, in the context of the winding up, the parent company:
 - (i)- replaces the company being wound up under aircraft leasing contracts and ongoing charter flight contracts with tour operators;
 - (ii)- carries out activities previously pursued by the company being wound up;

- (iii)- re-employs some workers until that point employed by the company being wound up and engages them to perform identical tasks;
- (iv)- receives small equipment from the company being wound up?
2. Must Article 267 (formerly Article 234 [EC]) TFEU be interpreted as meaning that, in the light of the facts set out in the preceding question and the fact that the lower national courts adjudicating on the case adopted contradictory decisions, the Supremo Tribunal de Justicia was under an obligation to refer to the Court of Justice of the European Union for a preliminary ruling the question of the correct interpretation of the concept of a 'transfer of a business' within the meaning of Article 1(1) of Directive 2001/23/EC?
3. Do Community law, in particular, the principles laid down by the Court of Justice in *Köbler* ⁽²⁾ on State liability for loss or damage caused to individuals as a result of an infringement of Community law by a national court adjudicating at last instance preclude the application of a national provision which makes a claim for damages against the State conditional upon the adverse decision having first been set aside?

⁽¹⁾ OJ 2001 L 82, p. 16.

⁽²⁾ C-224/01, EU:C:2003:513

**Request for a preliminary ruling from the Tribunal Supremo (Spain) lodged on 7 April 2014 —
Alfredo Rendón Marín v Administración del Estado**

(Case C-165/14)

(2014/C 175/38)

Language of the case: Spanish

Referring court

Tribunal Supremo, Sala de lo Contencioso-Administrativo, Section: Tercera

Parties to the main proceedings

Applicant: Alfredo Rendón Marín

Defendant: Administración del Estado

Question referred

Is national legislation which excludes the possibility of granting a residence permit to the parent of a European Union citizen who is a child and dependent on that parent, because the parent has a criminal record in the country in which the request is made, compatible with Article 20 of the Treaty on the Functioning of the European Union, interpreted in the light of the decisions of 19 October 2004 (Case C-200/02 *Zhu-Chen*) ⁽¹⁾ and 8 March 2011 (Case C-34/09 *Ruiz Zambrano*), ⁽²⁾ even if this results in the removal of the child from the territory of the European Union, as that child has to follow the parent?

⁽¹⁾ EU:C:2004:639.

⁽²⁾ EU:C:2011:124.

**Request for a preliminary ruling from the Tribunal Supremo (Spain) lodged on 7 April 2014 —
Grupo Itevelesa SL and Others v OCA Inspección Técnica de Vehículos SA and Another**

(Case C-168/14)

(2014/C 175/39)

Language of the case: Spanish

Referring court

Tribunal Supremo, Section Three of the Chamber for Contentious Administrative Proceedings

Parties to the main proceedings

Applicants: Grupo Itevelesa SL, Applus Iteuve Technology SL, Certio ITV SL and Asistencia Técnica Industrial SAE