Questions referred

1) 'On a proper interpretation of EU law respecting the common organisation of the market in wine, in particular Regulation EU N° 1308/2013 ([1]), is it lawful for a member state to promulgate a national measure which prescribes a minimum retail selling price for wine related to the quantity of alcohol in the sale product and which thus departs from the basis of free formation of price by market forces which otherwise underlies the market in wine?'

2) 'In the context of a justification sought under article 36 TFEU, where -

a member state has concluded that it is expedient in the interest of the protection of human health to increase the cost of consumption of a commodity — in casu alcoholic drinks — to consumers, or a section of those consumers; and

that commodity is one in respect of which the member state is free to levy excise duties or other taxes (including taxes or duties based upon alcoholic content or volume or value or a mixture of such fiscal measures),

is it permissible under EU law, and if so under what conditions, for a member state to reject such fiscal methods of increasing the price to the consumer in favour of legislative measures fixing minimum retail prices which distort intra EU trade and competition?'

3) 'Where a court in a member state is called upon to decide whether a legislative measure which constitutes a quantitative restriction on trade incompatible with article 34 TFEU may yet be justified under article 36 TFEU, on the grounds of the protection of human health, is that national court confined to examining only the information, evidence or other materials available to and considered by the legislator at the time at which the legislation was promulgated? And if not, what other restrictions might apply to the national court's ability to consider all materials or evidence available and offered by the parties at the time of the decision of the national court?'

4) 'Where a court in a member state is required, in its interpretation and application of EU law, to examine a contention by the national authorities that a measure otherwise constituting a quantitative restriction within the scope of article 34 TFEU is justified as a derogation, in the interests of the protection of human health, under article 36 TFEU, to what extent is the national court required, or entitled, to form — on the basis of the materials before it — an objective view of the effectiveness of the measure in achieving the aim which is claimed; the availability of at least equivalent alternative measures less disruptive of intra EU competition; and the general proportionality of the measure?'

5) 'In considering (in the context of a dispute as to whether a measure is justified on grounds of the protection of human health under article 36 TFEU) the existence of an alternative measure, not disruptive, or at least less disruptive, of intra EU trade and competition, is it a legitimate ground for discarding that alternative measure that the effects of that alternative measure may not be precisely equivalent to the measure impugned under article 34 TFEU but may bring further, additional benefits and respond to a wider, general aim?'

6) 'In assessing whether a national measure conceded, or found, to be a quantitative restriction in the sense of article 34 TFEU for which justification is sought under article 36 TFEU and in particular in assessing the proportionality of the measure, to what extent may a court charged with that function take into account its assessment of the nature and extent to which the measure offends as a quantitative restriction offensive to article 34?'

([1]) Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007,
OJ L 347, p. 671

Request for a preliminary ruling from the Cour d'appel de Mons (Belgium) lodged on 11 July 2014 — Les Jardins de Jouvence SCRL v Belgian State

(Case C-335/14)

(2014/C 339/06)

Language of the case: French

Referring court

Cour d'appel de Mons

Parties to the main proceedings

Appellant: Les Jardins de Jouvence SCRL

Respondent: Belgian State

Questions referred

1. Is a serviced residence, within the meaning of the Decree of the Council of the Walloon Region of 5 June 1997 relating to retirement homes, serviced residences and day-care centres for persons of 60 or over, [which makes available] for profit individual dwellings designed for one or two persons, comprising a fitted kitchen, a sitting room, a bedroom and a fitted bathroom, thereby enabling residents to lead an independent life, together with a range of optional services supplied against payment, with the aim of making a profit, those services not being available exclusively for the occupants of the serviced residences (… a bar restaurant, … hairdressing and beauty salon, … a physiotherapy room, … occupational therapy activities, … a laundry, … a pharmacy and a blood collection point, a doctor's surgery), a body that is in essence devoted to social wellbeing which carries out supplies 'of services and of goods closely linked to welfare and social security work' for the purposes of Article 13A(1)(g) 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 ([1]) (now Article 132(1)(g) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax) ([2])?

2. Is the answer to Question 1 different if the serviced residence in question receives, for the supply of the services in question, subsidies or any other form of advantage or funding from public authorities?

([1]) OJ 1977 L 145, p. 1.
([2]) OJ 2006 L 347, p. 1.

Reference for a preliminary ruling from the Amtsgericht Sonthofen (Germany) lodged on 11 July 2014 — Criminal proceedings against Sebat Ince

(Case C-336/14)

(2014/C 339/07)

Language of the case: German

Referring court

Amtsgericht Sonthofen

Party/parties to the main proceedings

Sebat Ince

Other party: Staatsanwaltschaft Kempten

Questions referred

I. On the first charge (January 2012) and the second charge in so far as it relates to the period up to the end of June 2012:

1(a) Must Article 56 TFEU be interpreted as meaning that criminal prosecution authorities are prohibited from penalising the intermediation of bets on sporting competitions carried on without German authorisation on behalf of betting organisers licensed in other Member States, where such intermediation is subject to the condition that the betting organiser too must hold a German authorisation, but the legal position under statute that is contrary to EU law ('monopoly on sports betting') prohibits the national authorities from issuing an authorisation to non-State-owned betting organisers?

1(b) Is the answer to question 1(a) altered by the fact that, in one of the 15 German *Länder* which jointly established and jointly implement the State monopoly on sports betting, the State authorities maintain, in prohibition or criminal proceedings, that the statutory prohibition on the issue of an authorisation to private suppliers is not applied in the event of an application for an authorisation to operate as an organiser or intermediary in that federal *Land*?