Parties to the main proceedings

Applicant: Drago Nemec

Defendant: Republika Slovenija

Operative part of the judgment

1. *Article 2(1) of Directive 2000/35/EC of the European Parliament and of the Council of 29 June 2000 on combating late payment in commercial transactions must be interpreted as meaning that a natural person holding a licence to carry on an activity as a self-employed craftsman must be regarded as an 'undertaking' within the meaning of that provision, and a transaction concluded by him as a 'commercial transaction' within the meaning of that provision, where that transaction, although not part of the activities covered by the licence, forms part of the exercise of an independent economic or professional activity that is structured and stable, which is for the referring court to ascertain in the light of all the circumstances of the case.*

2. *Directive 2000/35 must be interpreted as not precluding national legislation, such as Article 376 of the Obligacijski zakonik (Code of obligations), under which interest for late payment accrued but not paid ceases to run when the amount of the interest equals the principal amount.*

([1]) OJ C 302, 14.9.2015.

Judgment of the Court (Third Chamber) of 14 December 2016 (request for a preliminary ruling from the Commissione Tributaria Regionale di Roma — Italy) — Mercedes Benz Italia SpA v Agenzia delle Entrate Direzione Provinciale Roma 3

(Case C-378/15) ([1])

(Reference for a preliminary ruling — Taxation — Value added tax — Directive 77/388/EEC — Article 17 (5), third subparagraph, point (d) — Scope — Application of a deductible proportion to the value added tax charged on the acquisition of all goods and services used by a taxable person — Incidental transactions — Use of turnover as an indicator)

(2017/C 046/06)

Language of the case: Italian

Referring court

Commissione tributaria regionale di Roma

Parties to the main proceedings

Applicant: Mercedes Benz Italia SpA

Defendant: Agenzia delle Entrate Direzione Provinciale Roma 3

Operative part of the judgment

Point (d) of the third subparagraph of Article 17(5) and Article 19 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, must be interpreted as not precluding national rules and practice, such as those at issue in the main proceedings, which require a taxable person:

— *to apply to all goods and services which he has acquired a deductible proportion based on turnover, without providing for a method of calculation which is based on the nature and actual destination of each of the goods and services acquired and which objectively reflects the portion of the expenditure actually to be attributed to each of the taxed and untaxed activities; and*

— *to refer to the composition of his turnover in order to identify transactions which may be classified as 'incidental', in so far as the assessment carried out for that purpose also takes account of the relationship between those transactions and the taxable activities of that taxable person and, as the case may be, of the use which they entail of the goods and services which are subject to value added tax.*

([1]) OJ C 337, 12.10.2015.

Judgment of the Court (Second Chamber) of 15 December 2016 (request for a preliminary ruling from the Cour administrative — Luxembourg) — Noémie Depesme (C-401/15), Saïd Kerrou (C-401/15), Adrien Kauffmann (C-402/15), Maxime Lefort (C-403/15) v Ministre de l'Enseignement supérieur et de la Recherche

(Joined Cases C-401/15 to C-403/15) ([1])

(Reference for a preliminary ruling — Freedom of movement of persons — Worker's rights — Equal treatment — Social advantages — Financial aid for the pursuit of higher education studies — Requirement of a parent-child relationship — Concept of 'child' — Child of a spouse or registered partner — Contribution towards the maintenance of that child)

(2017/C 046/07)

Language of the case: French

Referring court

Cour administrative

Parties to the main proceedings

Applicants: Noémie Depesme (C-401/15), Saïd Kerrou (C-401/15), Adrien Kauffmann (C-402/15), Maxime Lefort (C-403/15)

Defendant: Ministre de l'Enseignement supérieur et de la Recherche

Operative part of the judgment

Article 45 TFEU and Article 7(2) of Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union must be interpreted as meaning that a child of a frontier worker, who is able to benefit indirectly from the social advantages referred to in the latter provision, such as study finance granted by a Member State to the children of workers pursuing or who have pursued an activity in that Member State, means not only a child who has a child-parent relationship with that worker, but also a child of the spouse or registered partner of that worker, where that worker supports that child. The latter requirement is the result of a factual situation, which it is for the national authorities and, if appropriate, the national courts, to assess, and it is not necessary for them to determine the reasons for that contribution or make a precise estimation of its amount.

([1]) OJ C 302, 14.9.2015, p. 27.