Parties to the main proceedings

Applicant: Agenzia delle Entrate — Direzione Regionale Lombardia

Defendant: H3G SpA

Questions referred

1) Given that the Italian legislature has exercised the power which is accorded by Article 90(2) and the second subparagraph of Article 185(2) of Directive 2006/112/EC ([1]) (and, prior to the adoption of that directive, by Article 1 (C)(1) and the second sentence of Article 20(1)(b) of Directive 77/388/EEC ([2])) in relation to the downward adjustment of the taxable amount and the adjustment of the VAT charged on taxable transactions in cases where the consideration agreed by the parties remains totally or partially unpaid, is it compatible with the principles of proportionality and effectiveness, which are guaranteed by the TFEU, and the principle of neutrality which governs the application of VAT, to impose limits that make it impossible or excessively costly for the taxable person to recover the tax on the consideration which remains totally or partially unpaid?

2) If the answer to the first question is in the affirmative, is it compatible with the principles set out above that a provision — such as Article 26(2) of Presidential Decree 633/1972 — as applied by the tax authority of the EU Member State, makes the right to recover the tax contingent on proof that insolvency or enforcement procedures have been unsuccessfully conducted, even where such procedures may reasonably be deemed to be uneconomic because of the amount of the claim, the prospects of recovery and the costs of the enforcement or insolvency procedures?

([1]) Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1).
([2]) Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (OJ 1977 L 145, p. 1).

Appeal brought on 4 May 2015 by Nissan Jidosha KK against the judgment of the General Court (Third Chamber) delivered on 4 March 2015 in Case T-572/12: Nissan Jidosha KK v Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case C-207/15 P)

(2015/C 262/04)

Language of the case: English

Parties

Appellant: Nissan Jidosha KK (represented by: B. Brandreth, barrister, D. Cañadas Arcas, abogada)

Other party to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs)

Form of order sought

The appellant claims that the Court should:

— Set aside the decision of the General Court of 4 March 2015 (Case T-572/12);

— Annul the decision of the First Board of Appeal of 6 September 2012 (Case R 2469/2011-1);

— Order OHIM to pay the Appellant's costs.

Pleas in law and main arguments

The appellant maintains that the General Court erred in law in its interpretation of Article 47 of Community Trade Mark Regulation (EC) No 207/2009 ([1]), ('CTMR'). In particular, it erred in holding that Article 47 does not permit sequential requests for renewal. Incidental to its erroneous interpretation of Art 47 CTMR the General Court erred in its interpretation of Art 48 CTMR in holding that it applied only to the sign of the Community Trade Mark.

a. The interpretation of Art 47(3) by the General Court is inconsistent.

b. The interpretation of Art 47(3) by the General Court calls for *de facto* surrender of part of the mark in terms contrary to those provided for under Art 50 CTMR.

c. The requirement for legal certainty called for by the General Court arises from the actions taken by OHIM. It is not inherent to the interpretation of Art 47(3) given by the General Court and legal certainty is equally possible under the Appellant's interpretation. In the present case, the actions of OHIM were carried out on the basis that the mark had been surrendered, which the General Court held was an error of law.

d. The interpretation of Art 47(3) advanced by the Appellant is not precluded by the wording of the Article.

e. The interpretation of Art 48 wrongly concludes that Article is concerned only with the sign of which the Community trade mark is composed.

([1]) Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark OJ L 78, p. 1

Request for a preliminary ruling from the Tribunalul Mureș (Romania) lodged on 8 May 2015 — ENEFI Energiahatekonysagi Nyrt v Direcția Generală Regională a Finanțelor Publice (DGRFP) Brașov — Administrația Județeană a Finanțelor Publice Mureș

(Case C-212/15)

(2015/C 262/05)

Language of the case: Romanian

Referring court

Tribunalul Mureș

Parties to the main proceedings

Appellant: ENEFI Energiahatekonysagi Nyrt

Respondent: Direcția Generală Regională a Finanțelor Publice (DGRFP) Brașov

Questions referred

1) For the interpretation of Article 4(1) and Article 4(2)(f) and (k) of Council Regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings ([1]), may the effects of the insolvency proceedings governed by the law of the State in which proceedings are opened include forfeiture of the right of a creditor, which has not taken part in the insolvency proceedings, to pursue its claim in another Member State or suspension of the enforcement of that claim in that other Member State?