



Reports of Cases

Case C-303/16

Solar Electric Martinique

v

Ministre des Finances and des Comptes publics

(Request for a preliminary ruling from the Conseil d'État (France))

(Reference for a preliminary ruling — Sixth VAT Directive — Directive 2006/112/EC — Works of construction — French overseas departments — Provisions rendered applicable by national law — Transactions consisting in sale and installation on buildings — Classification as a single transaction — Lack of jurisdiction)

Summary — Judgment of the Court (Fifth Chamber), 19 October 2017

Questions referred for a preliminary ruling — Jurisdiction of the Court — Limits — Purely internal situations — Provision of national law transposing EU law also applicable outside the scope of that law — Interpretation requested with a view to achieving the uniform application of the provisions of EU law — Transposition not consistent with the solutions adopted by EU law — No direct and unconditional reference made to the relevant provisions — Lack of jurisdiction of the Court

(Art. 267 TFUE; Council Directives 77/388 and 2006/112)

The Court of Justice of the European Union does not have jurisdiction to answer the question referred by the Conseil d'État (Council of State, France) by decision of 20 May 2016.

In that regard, it should be borne in mind that the Court has repeatedly held that it has jurisdiction to give preliminary rulings on questions concerning provisions of EU law in situations where the facts of the cases being considered by the national courts were outside the scope of EU law but where those provisions of EU law had been rendered applicable by domestic law due to a reference made by that law to the content of those provisions (see, to that effect, judgments of 21 December 2011, *Cicala*, C-482/10, EU:C:2011:868, paragraph 17 and the case-law cited, and of 18 October 2012, *Nolan*, C-583/10, EU:C:2012:638, paragraph 45).

Where, in regulating situations outside the scope of the EU measure concerned, national legislation seeks to adopt the same solutions as those adopted in that measure, it is clearly in the interest of the European Union that, in order to forestall future differences of interpretation, provisions taken from that measure should be interpreted uniformly (see, to that effect, judgments of 7 July 2011, *Agafitei and Others*, C-310/10, EU:C:2011:467, paragraph 39 and the case-law cited, and of 18 October 2012, *Nolan*, C-583/10, EU:C:2012:638, paragraph 46).

Thus, an interpretation, by the Court, of provisions of EU law in situations outside its scope is justified where those provisions have been made applicable to such situations by national law directly and unconditionally, in order to ensure that those internal situations and situations governed by EU law are treated in the same way (see, to that effect, judgment of 21 December 2011, *Cicala*, C-482/10, EU:C:2012:868, paragraph 19 and the case-law cited).

Therefore, with regard to the solutions for situations that are outside the scope of the EU measures concerned, the national legislation at issue in the main proceedings is not consistent with the solutions adopted by the Sixth Directive and the VAT Directive, in so far as it establishes an exemption which is not provided for in those directives. It cannot therefore be held that the provisions of those directives were rendered directly and unconditionally applicable by national law to situations outside the scope of those directives.

(see paras 25-27, 36, 37, operative part)