

**Questions referred**

1. Does Directive 2006/112/EC <sup>(1)</sup> preclude national rules under which a taxable person is denied the right to deduct VAT on the grounds that the person upstream, which issued the invoice in which the expenditure and VAT are indicated, has been declared inactive by the tax authorities?
2. If the answer to the first question is in the negative, does Directive 2006/112/EC preclude national rules under which it is sufficient to display the list of registered inactive taxpayers at the headquarters of the Agenției Națională de Administrare Fiscală (National Agency for Fiscal Administration) and to publish that list on the website of that agency, in the section Public information — Information relating to economic operators, in order that the right to deduct VAT in the circumstances described in the first question may be refused?

<sup>(1)</sup> Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1).

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**Request for a preliminary ruling from the Consiglio di Stato (Italy) lodged on 23 February 2016 — Lg Costruzioni Srl v Area — Azienda Regionale per l'Edilizia Abitativa — Distretto di Carbonia, Area — Azienda Regionale per l'Edilizia Abitativa**

(Case C-110/16)

(2016/C 175/10)

*Language of the case: Italian*

**Referring court**

Consiglio di Stato

**Parties to the main proceedings**

*Appellant:* Lg Costruzioni Srl

*Respondent:* Area — Azienda Regionale per l'Edilizia Abitativa — Distretto di Carbonia, Area — Azienda Regionale per l'Edilizia Abitativa

**Questions referred**

Is a provision such as that in Article 53(3) of Legislative Decree No 163 of 16 April 2006, which allows participation by an undertaking with a 'named' design engineer who, since he is not himself a tenderer, may not, according to national case-law, rely on the capacity of others, compatible with Article 48 of Directive 2004/18/EC of 31 March 2004? <sup>(1)</sup>

<sup>(1)</sup> Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts (OJ 2004 L 134, p. 114).

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**Request for a preliminary ruling from the Consiglio di Stato (Italy) lodged on 24 February 2016 — Persidera SpA v Autorità per le Garanzie nelle Comunicazioni, Ministero dello Sviluppo Economico delle Infrastrutture e dei Trasporti**

(Case C-112/16)

(2016/C 175/11)

*Language of the case: Italian*

**Referring court**

Consiglio di Stato

**Parties to the main proceedings**

*Appellant:* Persidera SpA

*Respondents:* Autorità per le Garanzie nelle Comunicazioni, Ministero dello Sviluppo Economico delle Infrastrutture e dei Trasporti

**Questions referred**

1. Does EU law, in particular Articles 56, 101, 102 and 106 TFEU, Article 9 of Directive 2002/21/EC<sup>(1)</sup> ('the Framework Directive'), Articles 3, 5 and 7 of Directive 2002/20/EC<sup>(2)</sup> ('the Authorisation Directive') and Articles 2 and 4 of Directive 2002/77/EC<sup>(3)</sup> ('the Competition Directive') and the principles of non-discrimination, transparency, freedom of competition, proportionality, effectiveness and pluralism of information preclude a provision of national law which, for the purposes of determining the number of digital networks to be allocated to operators for the conversion of analogue networks, provides that equal account should be taken of analogue networks operated entirely lawfully and analogue networks that operated in the past in breach of the anti-concentration thresholds laid down by rules of national law and have been the subject of adverse criticism by the Court of Justice or the European Commission or, in any event, operated without being granted the necessary right?
2. Does EU law, in particular Articles 56, 101, 102 and 106 TFEU, Article 9 of Directive 2002/21/EC ('the Framework Directive'), Articles 3, 5 and 7 of Directive 2002/20/EC ('the Authorisation Directive') and Articles 2 and 4 of Directive 2002/77/EC ('the Competition Directive') and the principles of non-discrimination, transparency, freedom of competition, proportionality, effectiveness and pluralism of information preclude a provision of national law which, for the purposes of determining the number of digital networks to be allocated to operators for the conversion of analogue networks takes account of all the analogue networks operated until that point, including those operated in breach of the anti-concentration thresholds laid down by rules of national law that have already been the subject of adverse criticism by the Court of Justice or the European Commission or, in any event, those operated without being granted the necessary rights, and which has the actual effect of reducing the number of digital networks allocated to a multi-network operator, by comparison with those operated under the analogue system, to an extent which is proportionally greater than the reduction imposed on competitors?

<sup>(1)</sup> Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) (OJ 2002 L 108, p. 33).

<sup>(2)</sup> Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive) (OJ 2002 L 108, p. 21).

<sup>(3)</sup> Commission Directive 2002/77/EC of 16 September 2002 on competition in the markets for electronic communications networks and services (Text with EEA relevance) (OJ 2002 L 249, p. 21).

**Request for a preliminary ruling from the Juzgado de Primera Instancia No 60 de Madrid (Spain)  
lodged on 29 February 2016 — Abanca Corporación Bancaria S.A. v Juan José González Rey and  
Others**

(Case C-120/16)

(2016/C 175/12)

*Language of the case: Spanish*

**Referring court**

Juzgado de Primera Instancia No 60 de Madrid (Spain)

**Parties to the main proceedings**

*Applicant:* Abanca Corporación Bancaria S.A.

*Defendants:* Juan José González Rey, María Consuelo González Rey and Francisco Rodríguez Alonso