

- (a) erection or
- (b) upgrade, if the expenditure incurred for the upgrade, as defined in the regulations on income tax, constituted at least 30 % of the initial value?

⁽¹⁾ OJ 2006 L 347, p. 1.

Request for a preliminary ruling from the Bundesverwaltungsgericht (Austria) lodged on 31 May 2016 — Corbin Opportunity Fund, L.P. and Others

(Case C-309/16)

(2016/C 335/44)

Language of the case: German

Referring court

Bundesverwaltungsgericht

Parties to the main proceedings

Applicant: Corbin Opportunity Fund, L.P., Corbin Capital Partners, Redwood Drawdown Master Fund, L.P., Redwood Opportunity Master Fund Ltd, Redwood Capital Management LLC, Pontus Holdings Ltd, RMF Financial Holdings Sàrl

Defendant: FMA Österreichische Finanzmarktaufsichtsbehörde

Questions referred

1. Is Directive 2014/59/EU⁽¹⁾ of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council, in particular Article 1(1) and Article 2(1)(2) thereof, applicable *ratione temporis* and *ratione materiae* to the case of a resolution company like that in the main proceedings whose resolution had already been started, through mechanisms provided for at national level, before the expiry of the period for transposition of the directive and continues to be carried out in the period after the expiry of the period for transposition on the basis of the national rules transposing the abovementioned directive?
2. Does Directive 2014/59/EU confer on creditors of such a resolution company which have applied to the resolution authority, requesting it to 'examine and prohibit' the conclusion with other creditors of certain legal transactions planned or already entered into by the resolution company (for example a court arrangement with creditors), rights for whose protection they have access to an administrative and judicial procedure?

⁽¹⁾ OJ 2014 L 173, p. 190.

Request for a preliminary ruling from the Sąd Okręgowy w Warszawie (Poland) lodged on 10 June 2016 — Piotr Zarski v Andrzej Stadnicki

(Case C-330/16)

(2016/C 335/45)

Language of the case: Polish

Referring court

Sąd Okręgowy w Warszawie

Parties to the main proceedings

Appellant: Piotr Zarski

Respondent: Andrzej Stadnicki

Questions referred

1. Does the letting of premises constitute a service within the meaning of Articles 2(1) and 3 (and recitals 2, 3, 7, 11, 18 and 23) of Directive 2011/7/EU of the European Parliament and of the Council of 16 February 2011 on combating late payment in commercial transactions? ⁽¹⁾
2. If the answer to Question 1 is in the affirmative, where a letting contract of indefinite duration is concluded, does the contract or the single, separate 'transaction', which is what each individual rental payment in return for access to the premises and utilities is, constitute a commercial transaction within the meaning of Articles 1(1), 2(1), 3, 6 and 8 (and recitals 1, 3, 4, 8, 9, 26 and 35) of Directive 2011/7/EU of the European Parliament and of the Council of 16 February 2011 on combating late payment in commercial transactions?
3. If in the answer to Question 2 it is established that each individual payment of rent in return for access to the premises and utilities does constitute a commercial transaction, must Articles 1(1), 2(1) and 12(4) (and recital 3) of Directive 2011/7/EU of the European Parliament and of the Council of 16 February 2011 on combating late payment in commercial transactions be interpreted as meaning that the Member States can exclude application of the directive to letting contracts concluded before 16 March 2013 in cases where late individual payments of rent occur after that date?

⁽¹⁾ OJ 2011 L 48, p. 1.

**Reference for a preliminary ruling from the Amtsgericht Kehl (Germany) lodged on 21 June 2016 —
Criminal proceedings against C**

(Case C-346/16)

(2016/C 335/46)

Language of the case: German

Referring court

Amtsgericht Kehl

Parties to the main proceedings

C

Other party: Staatsanwaltschaft Offenburg

Questions referred

1. Must Article 67(2) TFEU and Article 20 and Article 21 of Regulation No 562/2006 establishing a Community Code on the rules governing the movement of persons across borders ⁽¹⁾ (Schengen Borders Code), or any other rules of EU law, be interpreted as precluding national legislation which grants the police authorities of the Member State in question the power to search, within an area of up to 30 kilometres from the land border of that Member State with the States party to the Convention implementing the Schengen Agreement of 14 June 1985 (Convention implementing the Schengen Agreement), for an article, irrespective of the behaviour of the person carrying this article and of specific circumstances, with a view to impeding or stopping unlawful entry into the territory of that Member State or to preventing certain criminal acts directed against the security or protection of the border or committed in connection with the crossing of the border, in the absence of any temporary reintroduction of border controls at the relevant internal border pursuant to Article 23 et seq. of the Schengen Borders Code?