(b) if the contracting authority has such a duty but fails to discharge it, is there a sufficient basis for the court to declare the actions of that contracting authority to be unlawful, as having failed to ensure procedural transparency and objectivity, and as having failed to request evidence from the applicant or having failed to take a decision, on its own initiative, as to the possible influence that the personal situation of related persons might have on the outcome of the tendering procedure?

4. Must the legal provisions referred to in the third question and Article 101(1) TFEU (together or separately, but without limitation to those provisions), be understood and interpreted, in the light of the judgments of the Court of Justice in Case C-538/13, *eVigilo*, Case C-74/14, *Eturas and Others*, and Case C-542/14, *VM Remonts*, as meaning that:

(a) where a tenderer (the applicant) has become aware of the rejection of the lowest-priced tender submitted by one of two related tenderers in a public tendering procedure (tenderer A) and of the fact that the other tenderer (tenderer B) has been declared the successful tenderer, and also having regard to other circumstances connected with those tenderers and their participation in the tendering procedure (*the fact that tenderers A and B have the same board of directors; the fact that they have the same parent company, which did not take part in the tendering procedure; the fact that tenderers A and B did not disclose their links to the contracting authority and did not separately provide additional clarifications as to those links, inter alia because no inquiries had been made of them; the fact that tenderer A provided, in its tender, inconsistent information on the compliance by the proposed means of transport (refuse lorries) with the EURO V condition of the call for tenders; the fact that that tenderer, which submitted the lowest-priced tender, which was rejected because of deficiencies identified in it, first, did not challenge the contracting authority's decision and, second, lodged an appeal against the judgment of the court of first instance, in which appeal, inter alia, it [challenged] the lawfulness of the rejection of its tender; etc.*), and where, in respect of all of those circumstances, the contracting authority did not take any action, is that information alone sufficient to found a claim addressed to the review body that it should regard as unlawful the actions of the contracting authority in failing to ensure procedural transparency and objectivity, and, in addition, in not requiring the applicant to provide concrete evidence that tenderers A and B were acting unfairly?

(b) tenderers A and B did not prove to the contracting authority that they were genuinely and fairly taking part in the public tendering procedure solely because tenderer B voluntarily submitted a declaration of genuine participation, the management quality standards for participating in public tendering were applied by tenderer B, and, in addition, the tenders submitted by those tenderers were not formally and substantively identical?

5. Can the actions of mutually related economic operators (both of which are subsidiaries of the same company) which are participating separately in the same tendering procedure, the value of which reaches the value for international competitive tendering, and where the seat of the contracting authority which announced the tendering procedure and the place where the services are to be provided are not very far distant from another Member State (the Republic of Latvia), be in principle assessed — regard being had to, inter alia, the voluntary submission by one of those economic operators that it would be engaging in fair competition — under the provisions of Article 101 TFEU and the case-law of the Court of Justice which interprets those provisions?

([1]) 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).

([2]) Council Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts (OJ 1989 L 395, p. 33).

Request for a preliminary ruling from the Lietuvos vyriausiasis administracinis teismas (Lithuania) lodged on 18 October 2016 — *Valstybinė mokesčių inspekcija prie Lietuvos Respublikos finansų ministerijos* v *AB SEB bankas*

(Case C-532/16)

(2017/C 006/35)

Language of the case: Lithuanian

Referring court

Lietuvos vyriausiasis administracinis teismas

Parties to the main proceedings

Appellant: Valstybinė mokesčių inspekcija prie Lietuvos Respublikos finansų ministerijos

Other party: AB SEB bankas

Questions referred

1. Must Articles 184 to 186 of Council Directive 2006/112/EC ([1]) of 28 November 2006 on the common system of value added tax be interpreted as meaning that, in circumstances such as those at issue in the main proceedings, the deduction adjustment mechanism provided for in Directive 2006/112 is not applicable in cases where an initial deduction of value added tax (VAT) could not have been made at all because the transaction in question was an exempt transaction relating to the supply of land?

2. Is the answer to the first question affected by the fact that (1) the VAT on the purchase of the plots of land was initially deducted because of the tax administration's practice under which the supply in question was incorrectly regarded as being a supply of building land subject to VAT, as provided for in Article 12(1)(b) of Directive 2006/112, and/or (2) after the initial deduction made by the purchaser, the supplier of the land issued a VAT credit note to the purchaser adjusting the amounts of VAT indicated (specified) on the initial invoice?

3. If the answer to the first question is in the affirmative, are, in circumstances such as those at issue in the main proceedings, Articles 184 and/or 185 of Directive 2006/112 to be interpreted as meaning that, in a case where an initial deduction could not have been made at all because the transaction in question was exempt from VAT, the taxable person's obligation to adjust that deduction must be considered to have arisen immediately or only when it became known that the initial deduction could not have been made?

4. If the answer to the first question is in the affirmative, is, in circumstances such as those at issue in the main proceedings, Directive 2006/112, and in particular Articles 179, 184 to 186 and 250 thereof, to be interpreted as meaning that the adjusted amounts of deductible input VAT must be deducted in the tax period in which the taxable person's obligation and/or right to adjust the initial deduction arose?

([1]) OJ 2006 L 347, p. 1.

Request for a preliminary ruling from the Lietuvos vyriausiasis administracinis teismas (Lithuania) lodged on 25 October 2016 — *UAB 'Spika', AB 'Senoji Baltija', UAB 'Stekutis', UAB 'Prekybos namai Aistra'* v *Žuvininkystės tarnyba prie Lietuvos Respublikos žemės ūkio ministerijos*

(Case C-540/16)

(2017/C 006/36)

Language of the case: Lithuanian

Referring court

Lietuvos vyriausiasis administracinis teismas

Parties to the main proceedings

Appellants: UAB 'Spika', AB 'Senoji Baltija', UAB 'Stekutis', UAB 'Prekybos namai Aistra'

Respondent: Žuvininkystės tarnyba prie Lietuvos Respublikos žemės ūkio ministerijos

Other parties: Lietuvos Respublikos žemės ūkio ministerija, BUAB 'Sedija', UAB 'Starkis', UAB 'Baltijos šprotai', UAB 'Ramsun', AB 'Laivitė', UAB 'Baltlanta', UAB 'Strimelė', V. Malinausko gamybinė-komercinė firma 'Stilma', UAB 'Banginis', UAB 'Monistico', UAB 'Rikneda', UAB 'Baltijos jūra', UAB 'Grinvita', BUAB 'Baltijos žuvys'