Questions referred

1. Can a future intention to provide management services to a takeover target, in the event that the takeover is successful, be sufficient to establish that the potential acquirer is engaged in economic activity for the purposes of Art. 4 of the Sixth VAT Directive ([1]) so that VAT charged to the potential acquirer on goods or services provided for the purposes of seeking to progress the relevant acquisition can potentially be considered as VAT on an input to the intended economic activity of providing such management services; and

2. Can there be a sufficient 'direct and immediate link', as identified as a requirement by the CJEU in Cibo ([2]), between professional services rendered in the context of such a potential takeover and output, being the potential provision of management to the acquisition target in the event that the takeover is successful, so as to permit a deduction to be made in respect of the VAT payable on those professional services?

([1]) 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).

([2]) Judgment of 27 September 2001, *Cibo Participations SA v Directeur régional des impôts du Nord-Pas-de-Calais*, C-16/00, EU:C:2001:495.

Action brought on 12 May 2017 — European Commission v Italian Republic

(Case C-251/17)

(2017/C 221/20)

Language of the case: Italian

Parties

Applicant: European Commission (represented by E. Manhaeve and L. Cimaglia, acting as Agents)

Defendant: Italian Republic

Form of order sought

The Commission claims that the Court should:

— declare that, by failing to adopt all the measures necessary to implement the judgment of the Court of 19 July 2012 in Case C-565/10 *Commission* v *Italy*, the Italian Republic has failed to fulfil its obligations under Article 260(1) TFEU;

— order the Italian Republic to make a penalty payment in the amount of EUR 346 922,40 for each day of delay in implementing the judgment in Case C-565/10 from the date of judgment in the present case to the date of implementation of the judgment in Case C-565/10, less a possible reduction calculated by the proposed reduction formula;

— order the Italian Republic to pay a lump sum of EUR 39 113,80 per day from the date of the judgment in Case C-565/10 until the date of judgment in the present case or until implementation of the judgment in Case C-565/10, with a minimum total amount of EUR 62 699 421,40;

— order the Italian Republic to pay the costs.

Pleas in law and main arguments

By its application, the Commission takes issue with the failure to give effect to the judgment delivered by the Court on 19 July 2012 in relation to 80 of the Italian agglomerations which were the subject of that judgment.

In this respect, the Italian Republic acknowledges its failure to fulfil its obligations under Article 3 of Council Directive 91/271/EEC of 21 May 1991 concerning urban waste water treatment ([1]) in relation to 35 agglomerations. It also acknowledges its failure to fulfil its obligations under Articles 4 and 10 of that directive in relation to 70 agglomerations.

From this the Commission concludes that the Italian Republic has not taken all of the measures necessary to implement in full the judgment of 19 July 2012.

([1]) OJ 1991 L 135, p. 40.

Request for a preliminary ruling from the Amtsgericht Hannover (Germany) lodged on 15 May 2017 — Regina Lorenz and Prisca Sprecher v TUIfly GmbH

(Case C-254/17)

(2017/C 221/21)

Language of the case: German

Referring court

Amtsgericht Hannover

Parties to the main proceedings

Applicants: Regina Lorenz, Prisca Sprecher

Defendant: TUIfly GmbH

Questions referred

1. Is the absence on sick leave of a significant part of an operating air carrier's staff for flight operation an extraordinary circumstance under Article 5(3) of Regulation (EC) No 261/2004? ([1]) In the event that the first question is answered in the affirmative: how high must the rate of absence be to constitute such an extraordinary circumstance?

2. In the event that the first question is answered in the negative: is the spontaneous absence, due to unauthorised work stoppage under employment law or collective agreements ('wildcat strike'), of a significant part of an operating air carrier's staff for flight operation an extraordinary circumstance under Article 5(3) of Regulation (EC) No 261/2004? In the event that the second question is answered in the affirmative: how high must the rate of absence be to constitute such an extraordinary circumstance?

3. In the event that the first or the second question is answered in the affirmative: must the extraordinary circumstance itself have been present at the time the flight was cancelled or is the operating air carrier entitled to devise a new flight plan pursuant to economic considerations?

4. In the event that the first or the second question is answered in the affirmative: does the avoidability criterion relate to the extraordinary circumstance or, rather, to the consequences of the occurrence of the extraordinary circumstance?

([1]) Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91, OJ 2004 L 46, p. 1.