

Judgment of the Court (Tenth Chamber) of 19 December 2018 (request for a preliminary ruling from the Tribunalul Mureş — Romania) — Criminal proceedings against Virgil Mailat, Delia Elena Mailat, Apcom Select SA

(Case C-17/18) ⁽¹⁾

(Reference for a preliminary ruling — Taxation — Value added tax (VAT) — Directive 2006/112/EC — Articles 19 and 29 and Article 135(1)(l) — Transfer of a totality of assets or part thereof — Exemption for lettings of immovable property — Rental contract concerning an immovable property used for commercial purposes and the movable property necessary for that use — Supply of services relating to that immovable property which gave rise to the deduction of VAT — Adjustment)

(2019/C 65/22)

Language of the case: Romanian

Referring court

Tribunalul Mureş

Parties in the main proceedings

Virgil Mailat, Delia Elena Mailat, Apcom Select SA

Operative part of the judgment

1. The concept of 'transfer of a totality of assets or part thereof', within the meaning of Article 19 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, must be interpreted as not covering the transaction by which an immovable property which was used for commercial purposes is let with all capital equipment and inventory items necessary for that use, even if the lessee pursues the activity of the lessor under the same name.
2. Article 135(1)(l) of Directive 2006/112 must be interpreted as meaning that a lease contract for an immovable property which was used for commercial purposes and for all capital equipment and inventory items necessary for that use constitutes a single supply in which the letting of the immovable property is the principal supply.

⁽¹⁾ OJ C 123, 9.4.2018.

Judgment of the Court (Eighth Chamber) of 19 December 2018 — European Commission v Republic of Austria

(Case C-51/18) ⁽¹⁾

(Failure of a Member State to fulfil obligations — Taxation — Value added tax (VAT) — Directive 2006/112/EC — Article 2(1) — Administrative practice of imposing VAT on the royalty payable to an author of an original work of art on the basis of the resale right)

(2019/C 65/23)

Language of the case: German

Parties

Applicant: European Commission (represented by: N. Gossement and B.-R. Killmann, acting as Agents)

Defendant: Republic of Austria (represented by: G. Hesse, acting as Agent)

Operative part of the judgment

The Court:

1. Declares that, by providing that the royalty payable to an author of an original work of art on the basis of the resale right is subject to value added tax, the Republic of Austria has failed to fulfil its obligations under Article 2(1) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax;
2. Orders the Republic of Austria to pay the costs.

⁽¹⁾ OJ C 112, 26.3.2018.

Judgment of the Court (Full Chamber) of 10 December 2018 (request for a preliminary ruling from the Court of Session (Scotland), Edinburgh — United Kingdom) — Andy Wightman and Others v Secretary of State for Exiting the European Union

(Case C-621/18) ⁽¹⁾

(Reference for a preliminary ruling — Article 50 TEU — Notification by a Member State of its intention to withdraw from the European Union — Consequences of the notification — Right of unilateral revocation of the notification — Conditions)

(2019/C 65/24)

Language of the case: English

Referring court

Court of Session (Scotland), Edinburgh

Parties to the main proceedings

Applicants: Andy Wightman, Ross Greer, Alyn Smith, David Martin, Catherine Stihler, Jolyon Maugham, Joanna Cherry

Defendant: Secretary of State for Exiting the European Union

Interveners: Chris Leslie, Tom Brake

Operative part of the judgment

Article 50 TEU must be interpreted as meaning that, where a Member State has notified the European Council, in accordance with that article, of its intention to withdraw from the European Union, that article allows that Member State — for as long as a withdrawal agreement concluded between that Member State and the European Union has not entered into force or, if no such agreement has been concluded, for as long as the two-year period laid down in Article 50(3) TEU, possibly extended in accordance with that paragraph, has not expired — to revoke that notification unilaterally, in an unequivocal and unconditional manner, by a notice addressed to the European Council in writing, after the Member State concerned has taken the revocation decision in accordance with its constitutional requirements. The purpose of that revocation is to confirm the EU membership of the Member State concerned under terms that are unchanged as regards its status as a Member State, and that revocation brings the withdrawal procedure to an end.

⁽¹⁾ OJ C 445, 10.12.2018.