

Judgment of the Court (Ninth Chamber) of 18 November 2020 (request for a preliminary ruling from the Tribunale ordinario di Torino — Italy) — Techbau SpA v Azienda Sanitaria Locale AL

(Case C-299/19) ⁽¹⁾

(Reference for a preliminary ruling — Combating late payments in commercial transactions — Directive 2000/35/EC — Concept of ‘commercial transactions’ — Concepts of ‘delivery of goods’ and ‘provision of services’ — Article 1 and first subparagraph of Article 2(1) — Public works contract)

(2021/C 28/07)

Language of the case: Italian

Referring court

Tribunale ordinario di Torino

Parties to the main proceedings

Applicant: Techbau SpA

Defendant: Azienda Sanitaria Locale AL

Operative part of the judgment

The first subparagraph of Article 2(1) of Directive 2000/35/EC of the European Parliament and of the Council of 29 June 2000 on combating late payment in commercial transactions must be interpreted as meaning that a public works contract constitutes a commercial transaction which leads to the delivery of goods or the provision of services within the meaning of that provision and, therefore, falls within the material scope of that directive.

⁽¹⁾ OJ C 213, 24.6.2019.

Judgment of the Court (Fifth Chamber) of 18 November 2020 — European Commission v Federal Republic of Germany

(Case C-371/19) ⁽¹⁾

(Failure of a Member State to fulfil obligations — Taxation — Value added tax (VAT) — Directive 2006/112/EC — Article 170 and Article 171(1) — VAT refund to taxable persons who are not established in the Member State in which they purchase goods and services or import goods subject to VAT but who are established in another Member State — Directive 2008/9/EC — Rules for the refund of VAT — Articles 9 and 10 — Article 15(1) — Article 20 — No copy of an invoice or an importation document — Systematic rejection of incomplete refund applications — Refusal to ask the taxable person to complete the application after the expiry of the time limit for submitting an application — Principle of fiscal neutrality — Principle of proportionality — Admissibility)

(2021/C 28/08)

Language of the case: German

Parties

Applicant: European Commission (represented by: J. Jokubauskaitė and R. Pethke, acting as Agents)

Defendant: Federal Republic of Germany (represented by: S. Eisenberg and J. Möller, acting as Agents)

Operative part of the judgment

The Court:

1. Declares that, by rejecting applications for a value added tax (VAT) refund which were submitted before 30 September of the calendar year following the refund period but which did not include copies of the invoices or importation documents required by the legislation of the Member State of refund under Article 10 of Council Directive 2008/9/EC of 12 February 2008, laying down detailed rules for the refund of value added tax, provided for in Directive 2006/112/EC, to taxable persons not established in the Member State of refund but established in another Member State, without first inviting applicants to complete their applications by submitting, if necessary after that date, such copies or by providing appropriate information making it possible to process said applications, the Federal Republic of Germany has, by infringing the principle of neutrality of VAT and failing to ensure the practical effect of the right to a VAT refund of taxable persons not established in the Member State of refund, failed to fulfil its obligations under Articles 170 and 171 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, as amended by Council Directive 2008/8/EC of 12 February 2008, and Article 5 of Directive 2008/9;
2. Dismisses the action as to the remainder;
3. Orders the Federal Republic of Germany to bear its own costs and to bear two thirds of the costs incurred by the European Commission;
4. Orders the European Commission to bear one third of its costs.

(¹) OJ C 213, 24.6.2019.

Judgment of the Court (Fourth Chamber) of 19 November 2020 (request for a preliminary ruling from the Amtsgericht Heilbronn — Germany) — Criminal proceedings against ZW

(Case C-454/19) (¹)

(Reference for a preliminary ruling — Citizenship of the Union — Article 21 TFEU — Right to move and reside freely in the territory of the Member States — Criminal offence specifically concerning international child abduction — Restriction — Justification — Child protection — Proportionality)

(2021/C 28/09)

Language of the case: German

Referring court

Amtsgericht Heilbronn

Party in the main proceedings

ZW

Intervener: Staatsanwaltschaft Heilbronn

Operative part of the judgment

Article 21 TFEU must be interpreted as precluding the application of a Member State's legislation under which the retention by a parent of a child from his appointed carer in another Member State attracts criminal penalties even in the absence of force, threat of serious harm or deception, whereas where such retention takes place in the territory of the first Member State, the same act is punishable only if recourse is had to force, threat of serious harm or deception.

(¹) OJ C 280, 19.8.2019.