

3. Is Article 2 of the Treaty on European Union, read in conjunction with Article 4(3) thereof, to be interpreted as meaning that the obligation on Romania to comply with the requirements laid down in the reports drawn up pursuant to the Cooperation and Verification Mechanism (CVM), established by Commission Decision 2006/928/EC of 13 December 2006, forms part of the Member State's obligation to observe the principles of the rule of law?
4. Does Article 2 of the Treaty on European Union, read in conjunction with Article 4(3) thereof, and in particular the obligation to observe the values of the rule of law, preclude a provision of national legislation, such as Article 96(3)(a) of Law No 303/2004 on the rules governing judges and prosecutors, which defines, succinctly and in the abstract, a 'judicial error' as the performance of a procedural act in clear breach of provisions of substantive or procedural law, without specifying the nature of the provisions infringed, the scope of application of those provisions, *ratione materiae* and *ratione temporis*, in the proceedings, the methods, time limits and procedures for establishing infringement of legal provisions, or the authority competent to establish infringement of those legal provisions, and thus creates a risk of pressure being indirectly exerted on the judiciary?
5. Does Article 2 of the Treaty on European Union, read in conjunction with Article 4(3) thereof, and in particular the obligation to observe the values of the rule of law, preclude a provision of national legislation, such as Article 96(3)(b) of Law No 303/2004 on the rules governing judges and prosecutors, which defines a 'judicial error' as the delivery of a final judgment that is manifestly contrary to the law or inconsistent with the factual situation established by the evidence taken in the course of the proceedings, without defining the procedure for establishing inconsistency and without defining in specific terms what is meant by that inconsistency of the judgment vis-à-vis the applicable legal provisions or the factual situation, and thus creates a risk that the interpretation of the law and the evidence by the judiciary (judges and prosecutors) will be hindered?
6. Does Article 2 of the Treaty on European Union, read in conjunction with Article 4(3) thereof, and in particular the obligation to observe the values of the rule of law, preclude a provision of national legislation, such as Article 96(3) of Law No 303/2004 on the rules governing judges and prosecutors, pursuant to which the civil liability of a member of the judiciary (a judge or prosecutor) vis-à-vis the State is established solely on the basis of the State's own assessment, and, where appropriate, the advisory report of the [Judicial] Inspectorate, regarding the question of the intention or gross negligence of the judge or prosecutor in the commission of the material error, without that judge or prosecutor having the opportunity fully to exercise his rights of defence, and which thus creates the risk of the procedure for establishing the liability of the judge or prosecutor vis-à-vis the State being commenced and completed arbitrarily?
7. Does Article 2 of the Treaty on European Union, and in particular the obligation to observe the values of the rule of law, preclude a provision of national legislation, such as the last sentence of Article 539(2) of the Code of Criminal Procedure, read together with Article 541(2) and (3) thereof, whereby a defendant who has been acquitted on the merits, implicitly and *sine die*, is provided with an extraordinary *sui generis* means of appeal against a final judgment on the lawfulness of pre-trial detention, an appeal which is to be heard solely by a civil court, in the event that the unlawfulness of the pre-trial detention has not been established by a decision of a criminal court, in breach of the principle that legal provisions must be predictable and accessible, the principle of the specialisation of judges and the principle of legal certainty?

(¹) Commission Decision of 13 December 2006 establishing a mechanism for cooperation and verification of progress in Romania to address specific benchmarks in the areas of judicial reform and the fight against corruption (OJ 2006 L 354, p. 56).

Request for a preliminary ruling from the Kammergericht Berlin (Germany) lodged on 23 May 2019 — BY

(Case C-398/19)

(2019/C 288/31)

Language of the case: German

Referring court

Kammergericht Berlin

Parties to the main proceedings

Person whose surrender is sought: BY

Other party: General Prosecutor's Office in Berlin

Questions referred

1. Do the principles resulting from the judgment of the Court of Justice of the European Union of 6 September 2016 in the *Petruhhin* case (C-182/15) ⁽¹⁾ in relation to the application of Articles 18 and 21 TFEU in the case where a third country requests the extradition of a Union citizen also apply if the individual sought moved his centre of interest to the requested Member State at a time when he was not yet a Union citizen?
2. Is the home Member State that has been informed of an extradition request obliged, on the basis of the judgment of the Court of Justice of the European Union of 6 September 2016 in the *Petruhhin* case (C-182/15), to request that the requesting third country provide the case files for the purpose of examining whether to take over the prosecution?
3. Is a Member State that has been requested by a third country to extradite a Union citizen obliged, on the basis of the judgment of the Court of Justice of the European Union of 6 September 2016 in the *Petruhhin* case (C-182/15), to refuse extradition and to take over the criminal prosecution itself if it is possible for it to do so under its national law?

⁽¹⁾ EU:C:2016:630.

Request for a preliminary ruling from the Hof van Cassatie (Belgium) lodged on 24 May 2019 — Vos Aannemingen BVBA v Belgische Staat

(Case C-405/19)

(2019/C 288/32)

Language of the case: Dutch

Referring court

Hof van Cassatie

Parties to the main proceedings

Appellant: Vos Aannemingen BVBA

Respondent: Belgische Staat

Questions referred

1. Is Article 17 of Directive 77/388/EEC ⁽¹⁾ to be interpreted as meaning that the fact that expenditure also benefits a third party — as is the case where, in connection with the sale of apartments, a project promoter pays advertising costs, administrative costs and estate agents' commission, which also benefit the landowners — does not preclude the value added tax (VAT) charged on those costs from being fully deductible, provided that it is established that there is a direct and immediate link between the expenditure and the economic activity of the taxable person and that the advantage to the third party is of secondary importance compared to the requirements of the taxable person's business?