

2. If that question is answered in the affirmative, is Article 4(2) of the Framework Decision to be interpreted to the effect that the competent authority of the issuing State is required also in the situation provided for in Article 4(1)(a) of the Framework Decision to satisfy itself, even before forwarding the judgment and certificate, that enforcement of the sentence by the executing State would serve the purpose of facilitating the social rehabilitation of the sentenced person and is, furthermore, required to provide the information gathered for that purpose in section (d), point 4, of the certificate specifically, where the sentenced person claims in the statement of his opinion provided for in Article 6(3) of the Framework Decision that he has concrete family, social or professional links in the issuing State?
3. If question 1 is answered in the affirmative, must Article 9(1)(b) of the Framework Decision be interpreted to the effect that where, in the situation set out in Article 4(1)(a) of the Framework Decision, despite the consultation under Article 4(1)(3) of that Decision and any provision of other necessary information, it is not proven that there are such family, social or professional links from which it could reasonably be assumed that the enforcement in the executing State of the sentence may facilitate the social rehabilitation of the sentenced person, there is still a ground for refusing to recognise and enforce the judgment?

(¹) Council Framework Decision 2008/909/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union (OJ 2008 L 327, p. 27), as amended by Council Framework Decision 2009/299/JHA of 26 February 2009 (OJ 2009 L 81, p. 24).

Request for a preliminary ruling from the Bundesfinanzgericht (Austria) lodged on 20 December 2019 — Titanium Ltd

(Case C-931/19)

(2020/C 87/14)

Language of the case: German

Referring court

Bundesfinanzgericht

Parties to the main proceedings

Appellant: Titanium Ltd

Respondent authority: Finanzamt Wien 1/23

Question referred (¹)

Is the term ‘fixed establishment’ to be interpreted as meaning that the existence of human and technical resources is always necessary and therefore that the service provider’s own staff must be present at the establishment, or can — in the specific case of the letting, subject to tax, of a property situated in national territory, which constitutes only a passive tolerance of an act or situation — that property, even without human resources, be regarded as a ‘fixed establishment’?

(¹) On the interpretation of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1), as amended by Directive 2008/8/EC (OJ 2008 L 44, p. 11), and Council Implementing Regulation (EU) No 282/2011 of 15 March 2011 laying down implementing measures for Directive 2006/112 (OJ 2011 L 77, p. 1).