3) Article 2(8) of Directive 2011/7

must be interpreted as meaning that the taking into account, as part of the 'amount due' defined in that provision, of the amount of value added tax specified in the invoice or the equivalent request for payment is unrelated to the question as to whether or not the taxable person has already paid that amount to the Treasury on the date on which the delay in payment occurs.

(1) OJ C 53, 15.2.2021.

Judgment of the Court (Third Chamber) of 20 October 2022 (request for a preliminary ruling from the Bundesarbeitsgericht — Germany) — ROI Land Investments Ltd. v FD

(Case C-604/20) (1)

(Reference for a preliminary ruling — Judicial cooperation in civil matters — Regulation (EU) No 1215/2012 — Article 6 — Defendant not domiciled in a Member State — Article 17 — Jurisdiction over consumer contracts — Concept of 'trade or profession' — Article 21 — Jurisdiction over individual contracts of employment — Concept of 'employer' — Relationship of subordination — Regulation (EC) No 593/2008 — Applicable law — Article 6 — Individual employment contract — Letter of comfort between the employee and a third party company ensuring fulfilment of the employer's obligations vis-à-vis that employee)

(2022/C 472/07)

Language of the case: German

Referring court

Bundesarbeitsgericht

Parties to the main proceedings

Applicant: ROI Land Investments Ltd.

Defendant: FD

Operative part of the judgment

1. Article 21(1)(b)(i) and (2) of Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters,

must be interpreted as meaning that an employee may, in the courts for the last place where or from where he or she habitually carried out his or her work, sue a person, whether domiciled in a Member State or not, to whom the employee is not bound by a formal contract of employment, but who, by virtue of a letter of comfort on which the conclusion of the contract of employment with a third party depended, is directly liable to that employee for the fulfilment of that third party's obligations, provided that there is a relationship of subordination between that person and the employee.

2. Article 6(1) of Regulation No 1215/2012,

must be interpreted as meaning that the reservation relating to the application of Article 21(2) of that regulation precludes a court of a Member State from being able to rely on that State's rules governing jurisdiction where the conditions for the application of Article 21(2) are met, even if those rules would be more favourable to the employee. By contrast, where the conditions for the application of neither Article 21(2) nor any of the other provisions listed in Article 6(1) of that regulation are met, it is open to such a court, in accordance with the latter provision, to apply those rules in order to determine jurisdiction.

3. Article 17(1) of Regulation No 1215/2012 and Article 6(1) of Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I),

must be interpreted as meaning that the concept of 'trade or profession' covers not only activity as a self-employed person, but also activity as an employed person. In addition, an agreement between the employee and a person who is a third party to the employer mentioned in the contract of employment, under which that person is directly liable to the employee for that employer's obligations arising from the contract of employment, does not, for the purpose of applying those provisions, constitute a contract concluded outside and independently of any trade or professional activity or purpose.

(1) OJ C 44, 8.2.2021.

Judgment of the Court (Fourth Chamber) of 27 October 2022 (request for a preliminary ruling from the Kammergericht Berlin — Germany) — DB Station & Service AG v ODEG Ostdeutsche Eisenbahn GmbH

(Case C-721/20) (1)

(Reference for a preliminary ruling — Rail transport — Article 102 TFEU — Abuse of a dominant position — Directive 2001/14/EC — Access to railway infrastructure — Article 30 — Railway regulatory body — Review of infrastructure charges — National courts — Review of charges in the light of competition law — Division of competence between the regulatory authority and the national courts)

(2022/C 472/08)

Language of the case: German

Referring court

Kammergericht Berlin

Parties to the main proceedings

Applicant: DB Station & Service AG

Defendant: ODEG Ostdeutsche Eisenbahn GmbH

Operative part of the judgment

Article 30 of Directive 2001/14/EC of the European Parliament and of the Council of 26 February 2001 on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure, as amended by Directive 2007/58/EC of the European Parliament and of the Council of 23 October 2007,

must be interpreted as not precluding national courts from applying Article 102 TFEU and national competition law concurrently, in order to hear and determine a claim for reimbursement of infrastructure charges, provided, however, that the competent regulatory body has previously ruled on the lawfulness of the charges in question. In that context, a duty of sincere cooperation is incumbent upon those courts, which are required to take account of decisions delivered by that body as a criterion of assessment and to give reasons for their own decisions in the light of all the documents in the files submitted to them.

(1) OJ C 88, 15.3.2021.