

Defendant: Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága

Questions referred

1. Must, or may, Article 168(a) of Council Directive 2006/112/EC ⁽¹⁾ of 28 November 2006 on the common system of value added tax (the VAT Directive) be interpreted as meaning that, under the said provision, in view of its use of the expression 'are used', the right to deduct VAT cannot be refused in respect of a transaction that falls within the scope of the VAT Directive on the grounds that, in the opinion of the tax authorities, the service provided by the person issuing the invoice in the course of a transaction between independent parties is not 'beneficial' to the taxable activities of the recipient of the invoice, in that:
 - the value of the service (advertising) provided by the person issuing the invoice is disproportionate to the benefit (sales revenue/increase in sales revenue) which the service generates for the recipient; or
 - the said service (advertising) has not generated any sales revenue for the recipient?
2. Must, or may, Article 168(a) of the VAT Directive be interpreted as meaning that, under this provision, the right to deduct VAT may be refused in respect of a transaction that falls within the scope of the VAT Directive on the grounds that, in the opinion of the tax authorities, the service provided by the person issuing the invoice in the course of a transaction between independent parties is for a disproportionate sum, because the service (advertising) is expensive and the price is excessive in comparison with another service or services?

⁽¹⁾ OJ 2006 L 347, p. 1.

Request for a preliminary ruling from the Landgericht Ravensburg (Germany) lodged on 24 July 2020 — QY v Bank 11 für Privatkunden und Handel GmbH

(Case C-336/20)

(2020/C 423/23)

Language of the case: German

Referring court

Landgericht Ravensburg

Parties to the main proceedings

Applicant: QY

Defendant: Bank 11 für Privatkunden und Handel GmbH

Questions referred

1. Statutory presumption in accordance with Article 247(6), second paragraph, third sentence, and Article 247(12), first paragraph, third sentence, of the Einführungsgesetz zum Bürgerlichen Gesetzbuche (Introductory Law to the German Civil Code, 'the EGBGB')
 - (a) Inasmuch as they state that contract terms which conflict with the requirements of Article 10(2)(p) of Directive 2008/48/EC ⁽¹⁾ satisfy the requirements of Article 247(6), second paragraph, first and second sentences, of the EGBGB, and the requirements laid down in Article 247(12), first paragraph, second sentence, point 2(b), of the EGBGB, are Article 247(6), second paragraph, third sentence, and Article 247(12), first paragraph, third sentence, of the EGBGB incompatible with Article 10(2)(p) and Article 14(1) of Directive 2008/48/EC?

If so:

- (b) Does it follow from EU law, in particular from Article 10(2)(p) and Article 14(1) of Directive 2008/48/EC, that, inasmuch as they state that contract terms which conflict with the requirements of Article 10(2)(p) of Directive 2008/48/EC satisfy the requirements of Article 247(6), second paragraph, first and second sentences, of the EGBGB, and the requirements laid down in Article 247(12), first paragraph, second sentence, point 2(b), of the EGBGB, Article 247(6), second paragraph, third sentence, and Article 247(12), first paragraph, third sentence, of the EGBGB must be disapplied?

If the answer to Question 1(b) is in the negative:

2. Mandatory information required under Article 10(2) of Directive 2008/48/EC

- (a) Is Article 10(2)(a) of Directive 2008/48/EC to be interpreted as meaning that, as regards the type of credit, if the credit agreement is a linked credit agreement, information must be provided to that effect?

If not:

- (b) Is Article 10(2)(l) of Directive 2008/48/EC to be interpreted as meaning that the interest rate applicable in the case of late payments as applicable at the time of the conclusion of the credit agreement must be specified as an absolute number or, at the very least, that the current reference interest rate (in this case, the base rate in accordance with Paragraph 247 of the Bürgerliches Gesetzbuch (German Civil Code, 'the BGB')), from which the interest rate applicable in the case of late payments is obtained by adding a premium (in this case, a premium of five percentage points in accordance with Paragraph 288(1), second sentence, of the BGB), must be specified as an absolute number?

If not:

- (c) Forfeiture of the right of withdrawal in accordance with Article 14(1), first sentence, of Directive 2008/48/EC:

If any of the above Questions 2(a) to (c) is answered in the affirmative:

- (d) Is Article 14(1), second sentence, point (b), of Directive 2008/48/EC to be interpreted as meaning that the period of withdrawal does not begin until the information required under Article 10(2) of Directive 2008/48/EC has been provided fully and correctly, regardless of whether a missing or incorrect item of information is capable of affecting the consumer's ability to assess the scope of his obligation?

If the above Question 1(a) and/or one of Questions 2(a) to (c) is answered in the affirmative:

3. Right of the single judge to request a preliminary ruling pursuant to Article 267(2) TFEU

- (a) Is the right of withdrawal in accordance with Article 14(1), first sentence, of Directive 2008/48/EC subject to forfeiture?

If so:

- (b) Is forfeiture a time limit on the right of withdrawal which must be regulated by an act of parliament?

If not:

- (c) Does a plea of forfeiture depend, from a subjective standpoint, on the consumer knowing that his right of withdrawal continued to exist or, at least, on his ignorance being ascribed to gross negligence?

If not:

- (d) Does the creditor's facility to provide the consumer subsequently with the information required under Article 14(1), second sentence, point (b), of Directive 2008/48/EC and thus trigger the period of withdrawal preclude the application of the rules of forfeiture in good faith?

If not:

- (e) Is this compatible with the established principles by which the German courts are bound under the Grundgesetz (Basic Law) and, if so, how are German legal practitioners to resolve a conflict between the binding prescripts of international law and the prescripts of the Court of Justice of the European Union?

Irrespective of the answers to Questions 1 to 3 above:

4. Right of the single judge to request a preliminary ruling pursuant to Article 267(2) TFEU

Inasmuch as it also refers to orders for reference in accordance with the second paragraph of Article 267 TFEU, is Paragraph 348a(2), point 1, of the Zivilprozessordnung (German Code of Civil Procedure) incompatible with the right conferred on the national courts to request a preliminary ruling pursuant to the second paragraph of Article 267 TFEU and must it therefore be disapplied to orders for reference?

- ⁽¹⁾ Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC (OJ 2008 L 133, p. 66).

**Request for a preliminary ruling from the Kúria (Hungary) lodged on 31 July 2020 — HOLD
Alapkezelő Befektetési Alapkezelő Zrt. v Magyar Nemzeti Bank**

(Case C-352/20)

(2020/C 423/24)

Language of the case: Hungarian

Referring court

Kúria

Parties to the main proceedings

Applicant: HOLD Alapkezelő Befektetési Alapkezelő Zrt.

Defendant: Magyar Nemzeti Bank

Question referred

Do dividends distributed to the persons concerned

- (a) directly by virtue of their status as holders of preference shares with preferential rights to dividends in the investment fund manager, and
- (b) through single-member companies owned by the directors concerned, which hold preference shares with preferential rights to dividends in that fund manager

remain subject to the remuneration policies of investment fund managers?

**Request for a preliminary ruling from the Fővárosi Törvényszék (Hungary) lodged on 5 August
2020 — MARCAS MC Szolgáltató Zrt. v Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága**

(Case C-363/20)

(2020/C 423/25)

Language of the case: Hungarian

Referring court

Fővárosi Törvényszék