

Parties to the main proceedings

Applicant: Staatssecretaris van Justitie en Veiligheid

Defendants: E.N., S.S., J.Y.

Operative part of the judgment

Article 29(1) and (2) of Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person, read in conjunction with Article 27(3) of that regulation,

must be interpreted as not precluding national legislation which allows a national court or tribunal hearing an appeal at second instance against a judgment annulling a transfer decision to adopt, on the application of the competent authorities, an interim measure enabling those authorities to refrain from taking a fresh decision pending the outcome of that appeal and having the object or effect of suspending the running of the transfer time limit until that outcome, provided that such a measure may be adopted only where the implementation of the transfer decision has been suspended pursuant to Article 27(3) or (4) of that regulation during the examination of the appeal at first instance.

⁽¹⁾ OJ C 471, 22.11.2021.

Judgment of the Court (Seventh Chamber) of 30 March 2023 (request for a preliminary ruling from the Naczelny Sąd Administracyjny — Poland) — Gmina O. v Dyrektor Krajowej Informacji Skarbowej

(Case C-612/21, ⁽¹⁾ Gmina O.)

(Reference for a preliminary ruling — Taxation — Value added tax (VAT) — Directive 2006/112/EC — Article 2(1)(a) and (c) — Supply of goods and services for consideration — Article 9(1) — Meanings of ‘taxable person’ and ‘economic activity’ — Municipality which organises the installation of renewable energy on its territory for its residents who own immovable property and who have expressed the wish to be equipped with renewable energy systems — Their contribution amounting to 25 % of the subsidisable costs, without being able to exceed a maximum value agreed between the municipality and the interested property owner — Reimbursement of the municipality by a subsidy from the competent provincial authority of 75 % of the subsidisable costs — Article 13(1) — Municipalities not subject to tax for the activities or transactions carried out as public authorities)

(2023/C 179/05)

Language of the case: Polish

Referring court

Naczelny Sąd Administracyjny

Parties to the main proceedings

Applicant: Gmina O.

Defendant: Dyrektor Krajowej Informacji Skarbowej

Operative part of the judgment

Article 2(1), Article 9(1) and Article 13(1) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax

must be interpreted as meaning that the fact that a municipality supplies and installs, through an undertaking, renewable energy systems for its residents who own their property and who have expressed their wish to be equipped with renewable energy systems, where such an activity is not intended to obtain income on a continuing basis and gives rise, on the part of those residents, solely to a payment covering at most one quarter of the costs incurred, the balance being financed by public funds, does not constitute a supply of goods and services subject to value added tax.

⁽¹⁾ OJ C 95, 28.2.2022.

Judgment of the Court (Seventh Chamber) of 30 March 2023 (request for a preliminary ruling from the Naczelny Sąd Administracyjny — Poland) — Dyrektor Krajowej Informacji Skarbowej v Gmina L.

(Case C-616/21, ⁽¹⁾ Gmina L.)

(Reference for a preliminary ruling — Taxation — Value added tax (VAT) — Directive 2006/112/EC — Article 2(1)(c) — Supply of services for consideration — Article 9(1) — Meanings of ‘taxable person’ and ‘economic activity’ — Municipality which arranges for asbestos removal for the benefit of its residents who own immovable property and who have expressed the wish for that — Reimbursement of the municipality by a subsidy from the competent provincial authority of 40 % to 100 % of the costs — Article 13(1) — Municipalities not subject to tax for the activities or transactions carried out as public authorities)

(2023/C 179/06)

Language of the case: Polish

Referring court

Naczelny Sąd Administracyjny

Parties to the main proceedings

Applicant: Dyrektor Krajowej Informacji Skarbowej

Defendant: Gmina L.

Operative part of the judgment

Article 2(1), Article 9(1) and Article 13(1) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax

must be interpreted as meaning that where a municipality has arranged by means of an undertaking to carry out transactions involving asbestos removal and collection of asbestos products and waste, for the benefit of its residents who own immovable property and who have expressed interest in that regard, where such an activity is not intended to obtain income on a continuing basis and does not give rise, on the part of those residents, to any payment, since those transactions are financed by public funds, does not constitute a supply of services subject to value added tax.

⁽¹⁾ OJ C 95, 28.2.2022.
