

Request for a preliminary ruling from the Verwaltungsgerichtshof (Austria) lodged on 20 April 2021 — Luxury Trust Automobil GmbH

(Case C-247/21)

(2021/C 263/12)

Language of the case: German

Referring court

Verwaltungsgerichtshof

Parties to the main proceedings

Appellant on a point of law: Luxury Trust Automobil GmbH

Defendant authority: Finanzamt Österreich, Baden Mödling office

Questions referred

1. Is Article 42(a) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, ⁽¹⁾ in conjunction with Article 197(1)(c) of that directive (as amended by Directive 2010/45/EU ⁽²⁾), to be interpreted as meaning that the person to whom the supply is made is to be designated as liable for payment of VAT if the invoice, which does not show the amount of value added tax, states: 'Exempt intra-Community triangular transaction'?
2. If the first question is answered in the negative:
 - a) Can such a mention on the invoice be amended so as to apply retroactively (by stating: 'Intra-Community triangular transaction in accordance with Article 25 of the Austrian Law on turnover tax ("the UStG"). Liability for payment of VAT is transferred to the customer'?)
 - b) Is it necessary for the invoice recipient to receive the amended invoice in order for an amendment to be effective?
 - c) Does the effect of the amendment apply retroactively to the original date of invoicing?
3. Is Article 219a of Directive 2006/112/EC (as amended by Directive 2010/45/EU and the Corrigendum ⁽³⁾) to be interpreted as meaning that the rules on invoicing to be applied are those of the Member State whose provisions would be applicable if a 'customer' has not (yet) been designated on the invoice as the person liable for payment of VAT; or are the rules to be applied those of the Member State whose provisions would be applicable if the designation of the 'customer' as the person liable for payment of VAT is accepted as valid?

⁽¹⁾ OJ 2006 L 347, p. 1.

⁽²⁾ Council Directive of 13 July 2010 amending Directive 2006/112/EC on the common system of value added tax as regards the rules on invoicing (OJ 2010 L 189, p. 1).

⁽³⁾ Corrigendum to Directive 2010/45 amending Directive 2006/112 (OJ 2010 L 299, p. 46).

Request for a preliminary ruling from the Consiglio di Stato (Italy) lodged on 21 April 2021 — F. Hoffmann-La Roche Ltd and Others v Autorità Garante della Concorrenza e del Mercato

(Case C-261/21)

(2021/C 263/13)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Appellants: F. Hoffmann-La Roche Ltd, Novartis AG, Novartis Farma SpA, Roche SpA

Respondent: Autorità Garante della Concorrenza e del Mercato

Questions referred

1. In a case where a party's application seeks directly to assert an infringement of the principles expressed by the Court of Justice in that case in order to secure the setting-aside of the judgment under appeal, can the national court, against whose decisions there is no judicial remedy under national law, determine whether the principles expressed by the Court of Justice in the same case have been applied correctly in that specific case, or is that determination a matter for the Court of Justice?
2. Has judgment No 4990/2019 of the Consiglio di Stato (Council of State) infringed, in the sense asserted by the parties, the principles expressed by the Court of Justice in the judgment of 23 January 2018 [in Case C-179/16] in relation (a) to the inclusion in the same relevant market of the two medicinal products without taking account of the views of authorities which had held that the off-label demand and supply of Avastin was unlawful; and (b) to the failure to verify the allegedly misleading nature of the information disseminated by the undertakings?
3. Do Articles 4(3) and 19(1) TEU and Articles 2(1) and (2) and 267 TFEU, read also in the light of Article 47 of the Charter of Fundamental Rights of the European Union, preclude a system such as that concerning Article 106 of the codice del processo amministrativo (Code of Administrative Procedure, Italy) and Articles 395 and 396 of the codice di procedura civile (Code of Civil Procedure, Italy), inasmuch as that system does not permit the use of the remedy of an application for revision to challenge judgments of the Council of State that conflict with judgments of the Court of Justice, and in particular with the legal principles asserted by the Court of Justice in a preliminary ruling on questions referred to it?

Request for a preliminary ruling from the Cour d'appel de Bruxelles (Belgium) lodged on 26 April 2021 — AB, AB-CD v Z EF

(Case C-265/21)

(2021/C 263/14)

Language of the case: French

Referring court

Cour d'appel de Bruxelles

Parties to the main proceedings

Appellants: AB, AB-CD

Respondent: Z EF

Questions referred

1. Must the concept of 'matters relating to a contract', within the meaning of Article 5(1) of Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters ⁽¹⁾ ('the Brussels I Regulation'):
 - a. be interpreted as requiring the establishment of a legal obligation freely assumed by one person towards another, which forms the basis of the applicant's action, and is that the position even if the obligation was not freely assumed by the defendant and/or towards the applicant?
 - b. If the answer is in the affirmative, what must the degree of connection between the legal obligation freely assumed and the applicant and/or the defendant be?