Questions referred

1. Should the judgment of the Court of Justice of 8 April 1976 in Case 43/75 *Defrenne* v *SABENA* ([1]) be interpreted as granting the national court autonomous power — *sua sponte* and without submitting a request for a preliminary ruling under Article 267 TFEU — to maintain, on the basis of a purely internal legal provision, the effects, as regards the past, of national legislation concerning the VAT exemption for medical and paramedical services in respect of which the same court (having previously, in the same dispute, submitted three requests for a preliminary ruling under Article 267 TFEU to the Court of Justice, which the Court answered by judgment of 27 June 2019 in Case C-597/17) ([2]) subsequently found that the contested provision is contrary to European Union law and partially annulled that contested provision of national law, while maintaining the effects, as regards the past, of that provision of national law found to be contrary to EU law, thereby completely denying taxable persons liable for VAT the right to a refund of VAT levied in breach of EU law?

2. Is the national court entitled to maintain — autonomously and without submitting a request for a preliminary ruling under Article 267 TFEU — the effects, as regards the past, of a national provision held to be contrary to the VAT Directive, on the basis of a general reference to 'important considerations of legal certainty affecting all the interests involved, both public and private' and an alleged 'practical impossibility of refunding unduly collected VAT to the recipients of the supplies or services provided by the taxable person or of claiming payment from them in the event of an erroneous failure to charge them, particularly where a large number of unidentified persons is involved, or where the taxable persons do not have an accounting system that enables them subsequently to identify the supplies or services in question and their value' when the taxable persons have not even been given the possibility of demonstrating that such a 'practical impossibility' does not exist?

([1]) EU:C:1976:56.
([2]) EU:C:2019:544.

Request for a preliminary ruling from the Cour de cassation (France) lodged on 1 June 2022 — Bolloré logistics SA v Direction interrégionale des douanes et droits indirects de Caen, Recette régionale des douanes et droits indirects de Caen, Bolloré Ports de Cherbourg SAS

(Case C-358/22)

(2022/C 340/23)

Language of the case: French

Referring court

Cour de cassation

Parties to the main proceedings

Appellant in cassation: Bolloré logistics SA

Respondents in cassation: Direction interrégionale des douanes et droits indirects de Caen, Recette régionale des douanes et droits indirects de Caen, Bolloré Ports de Cherbourg SAS

Questions referred

1. Must Articles 195, 217 and 221 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code, ([1]) as amended by Council Regulation (EC) No 1186/2009 of 16 November 2009 setting up a Community system of reliefs from customs duty, ([2]) be interpreted as meaning that the customs administration may not demand payment of a customs debt from the joint and several guarantor when the duties have not been lawfully communicated to the debtor?

2 (a) Does observance of the rights of the defence, including the right to present observations before any measure adversely affecting a person, which is a fundamental principle of EU law, mean that where, in the case of non-payment of the customs debt by the debtor within the prescribed period, its recovery is sought from the guarantor, the customs administration must first place the guarantor in a position in which it can effectively make known its views as regards the information on which the customs administration intends to base its decision to enforce payment?

(b) Is the fact that the debtor of the customs debt has itself been placed in a position in which it can effectively make known its views before the communication of the duties relevant to the answer to Question 2(a)?

(c) If Question 2(a) is answered in the affirmative, what is the decision adversely affecting the guarantor before which there must be an *inter partes* phase: the decision of the customs administration to enter the duties in the accounts and to notify them to the debtor of the customs debt or the decision to enforce payment from the guarantor?

(1) OJ 1992 L 302, p. 1.
(2) OJ 2009 L 324, p. 23.

Request for a preliminary ruling from the Verwaltungsgericht Minden (Germany) lodged on 7 June 2022 — J.B., S.B. and F.B. v Federal Republic of Germany

(Case C-364/22)

(2022/C 340/24)

Language of the case: German

Referring court

Verwaltungsgericht Minden

Parties to the main proceedings

Applicants: J.B., S.B., F.B.

Defendant: Federal Republic of Germany

Questions referred

1. Must Article 33(2)(d) of Directive 2013/32/EU [1] be interpreted as precluding a national rule under which a further application for international protection must be refused as inadmissible irrespective of whether the applicant concerned returned to his or her country of origin after an application for international protection was rejected and before a further application for international protection was made?

2. In the context of the answer to Question 1, does it make any difference whether the applicant concerned was removed to his or her country of origin or returned there voluntarily?

3. Must Article 33(2)(d) of Directive 2013/32/EU be interpreted as precluding a Member State from refusing a further application for international protection as inadmissible where, although a decision on the granting of subsidiary protection status was not taken by way of the decision on the earlier application, grounds preventing removal were examined, and that examination is comparable in substance to the examination as to the granting of subsidiary protection status?

4. Are the examination of grounds preventing removal and the examination as to the granting of subsidiary protection status comparable where, in the examination of grounds preventing removal, it was necessary cumulatively to examine whether, in the country to which the applicant concerned is to be removed, he or she faces

   (a) a real risk of torture or inhuman or degrading treatment or punishment;

   (b) a risk of being subjected to the death penalty or execution;

   (c) a risk of being the subject of an infringement of the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights — ECHR); or

   (d) a real and significant threat to his or her life and limb or freedom;

   or whether he or she

   (e) is exposed, as a member of the civilian population, to a significant individual threat to life or limb in the context of an international or internal armed conflict?

(1) Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (OJ 2013 L 180, p. 60).