

— also the (other) passenger cars which were available on the market for second-hand passenger cars in 2010, and which, unlike the passenger car [concerned], were first put into service after 30 May 2006, but are otherwise comparable, and which were (imported and) registered as unused or used passenger cars after 30 May 2006 (after 30 May 2006 and up to 2009)?

2. In the appraisal of the question as to whether Article 110 TFEU precludes the levying of BPM<sup>(1)</sup> in respect of the registration of the passenger car in 2010 in so far as that levy is based on the CO<sub>2</sub> emission (in accordance with the tables in Article 9(1) of the Wet BPM (Netherlands Law on passenger-car and motorcycle tax), should that part of the levy be deemed to be a new tax, to be distinguished from the BPM up to 1 February 2008, which was based solely on the list price, with the result that, to the extent to which the levy is based on the CO<sub>2</sub> emission, a comparison with (similar) second hand passenger cars which were registered before 1 January 2010 is not relevant?
  
3. If there is no question of a new tax as contemplated in Question 2: is the levying of BPM in respect of the registration of the passenger car in 2010, in so far as that levy is based on the CO<sub>2</sub> emission (in accordance with the tables in Article 9(1) of the Wet BPM), precluded by the fact that, pursuant to Article 110 TFEU, the levy based on the CO<sub>2</sub> emission (under Article 9ba of the Wet BPM applicable at the time) was not imposed in respect of passenger cars comparable to the passenger car [concerned] which were first put into service before 1 February 2008 and which, in the period from 1 February 2008 to 31 December 2009, were imported and registered as used passenger cars, whereas that levy based on the CO<sub>2</sub> emission was imposed in respect of the registration, in the aforementioned period, of passenger cars which were first put into service after 1 February 2008 but were otherwise comparable to the passenger car [concerned]?

<sup>(1)</sup> Belasting personenauto's en motorrijwielen (Netherlands passenger-car and motorcycle tax).

**Reference for a preliminary ruling from the Audiencia Provincial de Salamanca (Spain) lodged on 8 October 2012 — Josune Esteban García**

(Case C-451/12)

(2012/C 399/20)

*Language of the case: Spanish*

**Referring court**

Audiencia Provincial de Salamanca

**Parties to the main proceedings**

*Appellant:* Josune Esteban García

**Question referred**

Do Articles 4, 12, 114 and 169 of the Treaty and Article 38 of the Charter of Fundamental Rights of the European Union, in conjunction with Directive 93/13<sup>(1)</sup> and the case-law of the Court of Justice relating to the high level of protection of the interests of consumers, as well as to the practical effect of directives and the principles of equivalence and effectiveness, allow the Audiencia Provincial, as a national court of appeal, to hear and determine, in spite of the absence of any relevant domestic legal rule, the appeal brought against the decision of the court of first instance assigning to a court of the place where the defendant has its address territorial jurisdiction to hear and determine the action for damages based on the defendant's alleged failure to fulfil its contractual obligations under a contract concluded over the internet?

<sup>(1)</sup> Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ 1993 L 95, p. 29)

**Reference for a preliminary ruling from the Bundesfinanzhof (Germany) lodged on 10 October 2012 — Pro Med Logistik GmbH v Finanzamt Dresden-Süd**

(Case C-454/12)

(2012/C 399/21)

*Language of the case: German*

**Referring court**

Bundesfinanzhof

**Parties to the main proceedings**

*Applicant:* Pro Med Logistik GmbH

*Defendant:* Finanzamt Dresden-Süd

**Questions referred**

1. Having regard to the principle of neutrality, do the third subparagraph of Article 12(3)(a) in conjunction with Annex H, Category 5, of Sixth Council Directive 77/388/EEC of 17 May 1977<sup>(1)</sup> on the harmonisation of the laws of the Member States relating to turnover taxes and Article 98(1) in conjunction with Annex III, Category 5, of Council Directive 2006/112/EC of 28 November 2006<sup>(2)</sup> on the common system of value added tax (OJ L 347, p. 1) preclude national rules which provide for a reduced rate of turnover tax for local passenger transport by taxi, whereas local passenger transport by minicab is subject to the standard rate of tax?