

15. Does the effectiveness of Article 47 of the Charter require that, in a procedural situation such as the present, the administrative court hearing the action against the administrative decision of the tax authority of the Member State may review the legality of the obtaining of evidence collected for the purpose of criminal proceedings without the knowledge of the person concerned in the context of criminal proceedings, in particular when the taxable person against whom the criminal proceedings have been brought in parallel has no knowledge of that documentation and has been unable to contest its legality before a court?
16. Also having regard to question 6, must Council Regulation (EU) No 904/2010<sup>(2)</sup> of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax, in the light, in particular, of its seventh recital, according to which, for the purposes of collecting the tax owed, Member States should cooperate to help ensure that VAT is correctly assessed and, in order to do so, they must not only monitor the correct application of tax owed in their own territory, but should also provide assistance to other Member States for ensuring the correct application of tax relating to activity carried out on their own territory but owed in another Member State, be interpreted as meaning that, in a situation where the facts are as in the present case, the tax authority of the Member State which discovers the tax debt must make a request to the tax authority of the Member State in which the taxable person was subject to a tax inspection and complied with its obligation to pay tax?
17. If the answer to question 16 is in the affirmative and the decisions adopted by the tax authority of the Member State are challenged before a court and are found to be unlawful in procedural terms on that ground, in other words, on the basis of failure to obtain information and the absence of a request, what action should the court hearing the action against the administrative decisions adopted by the tax authority of the Member State take, having regard also to the considerations set out in question 14?

<sup>(1)</sup> OJ L 347, p. 1.

<sup>(2)</sup> OJ L 268, p. 1.

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**Request for a preliminary ruling from the Supremo Tribunal Administrativo (Portugal) lodged on  
15 September 2014 — Fazenda Pública v Beiragás — Companhia de Gás das Beiras SA**

(Case C-423/14)

(2014/C 439/26)

*Language of the case: Portuguese*

**Referring court**

Supremo Tribunal Administrativo

**Parties to the main proceedings**

*Applicant:* Fazenda Pública

*Defendant:* Beiragás — Companhia de Gás das Beiras SA

**Questions referred**

1. Does EU law, and in particular the provisions of Article 78(a) of Directive 2006/112/EC<sup>(1)</sup>, preclude ... the land use tax paid by the gas distributor from being passed on to the final consumer, without interest or other charges and regardless of the price that the consumer pays for the gas consumed, that is, without being incorporated in that price?

If the answer to that question is negative, the following question is referred for a preliminary ruling:

2. Does EU law, and in particular the provisions of Articles 73 to 79 of Directive 2006/112/EC, preclude ... the land use tax paid by the gas distributor, when it is passed on to the final consumer, without interest or other charges and regardless of the price that the consumer pays for the gas consumed, from being considered as a taxable amount [for the purposes of VAT]?

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<sup>(1)</sup> Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1).