

5. The principle that abusive practices are prohibited must be interpreted as being applicable in a situation such as that at issue in the main proceedings, which concerns the possible exemption of a supply of immovable property from value added tax.

⁽¹⁾ OJ C 243, 4.7.2016.

Judgment of the Court (First Chamber) of 23 November 2017 (reference for a preliminary ruling from the Helsingin hallinto-oikeus) — Proceedings brought by A Oy

(Case C-292/16) ⁽¹⁾

(Reference for a preliminary ruling — Freedom of establishment — Direct taxation — Corporation tax — Directive 90/434/EEC — Article 10(2) — Transfer of assets — Non-resident permanent establishment transferred, in the course of a transfer of assets, to a receiving company also non-resident — Right of the Member State of the transferring company to tax that establishment's profits or capital gains resulting from the transfer of assets — National legislation providing for immediate taxation of the profits or capital gains in the year of transfer — Collection of the tax due as revenue of the tax year in which the transfer of assets took place)

(2018/C 022/13)

Language of the case: Finnish

Referring court

Helsingin hallinto-oikeus

Parties to the main proceedings

A Oy

Operative part of the judgment

Article 49 TFEU must be interpreted as precluding national legislation, such as that at issue in the main proceedings, which, where a resident company, in the course of a transfer of assets, transfers a non-resident permanent establishment to a company that is also non-resident, first, provides for the immediate taxation of the capital gains resulting from the transfer and, second, does not allow deferred collection of the tax, whereas in an equivalent national situation such capital gains are not taxed until the disposal of the transferred assets, in so far as that legislation does not allow the deferred collection of the tax.

⁽¹⁾ OJ C 270, 25.7.2016.

Judgment of the Court (Second Chamber) of 16 November 2017 (request for a preliminary ruling from the Naczelny Sąd Administracyjny — Poland) — Kozuba Premium Selection sp. z o.o. v Dyrektor Izby Skarbowej w Warszawie

(Case C-308/16) ⁽¹⁾

(Reference for a preliminary ruling — Taxation — Common system of value added tax (VAT) — Directive 2006/112/EC — Article 12(1) and (2) — Article 135(1)(j) — Taxable transactions — Exemption for the supply of buildings — Concept of 'first occupation' — Concept of 'conversion')

(2018/C 022/14)

Language of the case: Polish

Referring court

Naczelny Sąd Administracyjny

Parties to the main proceedings

Applicant: Kozuba Premium Selection sp. z o.o.

Defendant: Dyrektor Izby Skarbowej w Warszawie

Operative part of the judgment

Articles 12(1)(a) and 135(1)(j) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as precluding a national law, such as that at issue in the main proceedings, which makes the VAT exemption on the supply of buildings subject to the condition that the first occupation thereof arises in the context of a taxable transaction. The same provisions must be interpreted as not precluding such a national law from making that exemption subject to the condition, in the case of the ‘upgrade’ of an existing building, that the costs incurred have not exceeded 30 % of the initial value thereof, provided that that concept of ‘upgrade’ is interpreted in the same way as that of ‘conversion’ in Article 12(2) of Directive 2006/112, namely as meaning that the building concerned must have been subject to substantial modifications intended to modify the use or alter considerably the conditions of occupation.

⁽¹⁾ OJ C 335, 12.9.2016.

Judgment of the Court (Fifth Chamber) of 15 November 2017 (requests for a preliminary ruling from the Bundefinanzhof — Germany) — Rochus Geissel, in his capacity as liquidator of RGEX GmbH i.L v Finanzamt Neuss (C-374/16), and Finanzamt Bergisch Gladbach v Igor Butin (C-375/16)

(Joined Cases C-374/16 and C-375/16) ⁽¹⁾

(References for a preliminary ruling — Taxation — Value added tax (VAT) — Directive 2006/112/EC — Article 168(a), Article 178(a) and Article 226(5) — Deduction of input tax — Compulsory content of invoices — Legitimate expectation on the part of the taxable person regarding the existence of the conditions giving rise to the right to deduct)

(2018/C 022/15)

Language of the case: German

Referring court

Bundefinanzhof

Parties to the main proceedings

Applicant: Rochus Geissel, in his capacity as liquidator of RGEX GmbH i.L. (C-374/16), Finanzamt Bergisch Gladbach (C-375/16)

Defendant: Finanzamt Neuss (C-374/16), Igor Butin (C-375/16)

Operative part of the judgment

Article 168(a) and Article 178(a) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, read in conjunction with Article 226(5) thereof, must be interpreted as precluding national legislation, such as that at issue in the main proceedings, which makes the exercise of the right to deduct input VAT subject to the condition that the address where the issuer of an invoice carries out its economic activity must be indicated on the invoice.

⁽¹⁾ OJ C 392, 24.10.2016.