

2. Framework Decision 2005/214, as amended by Framework Decision 2009/299, must be interpreted as meaning that that it does not require a national court not to apply a provision of national law that is incompatible with Article 9(3) of Framework Decision 2005/214, as amended by Framework Decision, since that provision is devoid of direct effect. Nevertheless, the referring court is required to give, as far as is possible, an interpretation of national law in accordance with EU law in order to ensure a result that is compatible with the aim pursued by Framework Decision 2005/214, as amended by Framework Decision 2009/299.

(¹) OJ C 221, 25.6.2018.

Judgment of the Court (Sixth Chamber) of 5 March 2020 (request for a preliminary ruling from the Tribunal Arbitral Tributário (Centro de Arbitragem Administrativa — CAAD) — Portugal) — IDEALMED III — Serviços de Saúde, SA v Autoridade Tributária e Aduaneira

(Case C-211/18) (¹)

(Reference for a preliminary ruling — Taxation — Value added tax (VAT) — Directive 2006/112/EC — Article 132(1)(b) — Exemptions — Hospital and medical care — Hospital establishments — Services provided under social conditions comparable to those applicable to bodies governed by public law — Articles 377 and 391 — Derogations — Right to opt for a taxation regime — Maintenance of the taxation — Variation in the conditions for the exercise of the activity)

(2020/C 161/06)

Language of the case: Portuguese

Referring court

Tribunal Arbitral Tributário (Centro de Arbitragem Administrativa — CAAD)

Parties to the main proceedings

Applicant: IDEALMED III — Serviços de Saúde, SA

Defendant: Autoridade Tributária e Aduaneira

Operative part of the judgment

1. Article 132(1)(b) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as meaning that the competent authorities in a Member State may — for the purpose of determining whether the care services provided by a private hospital, which are in the public interest, are provided under social conditions comparable to those applicable to bodies governed by public law, within the meaning of that provision — take into account the fact that those services are provided under contracts concluded with public authorities of that Member State, at prices fixed by those contracts and whose costs are partially borne by the social security institutions of that Member State;
2. Article 391 of Directive 2006/112, read in conjunction with Article 377 thereof, and the principles of legitimate expectation, legal certainty and fiscal neutrality, must be interpreted as precluding the exemption from VAT of supplies of care services provided by private hospitals which fall within Article 132(1)(b) of that directive owing to a change in the conditions under which it carried on its activities that occurred after it opted for the taxation regime laid down in the national law of the Member State concerned which laid down the requirement, for all taxable persons making such a choice, to remain subject to that regime for a certain period, where such a period has not yet expired.

(¹) OJ C 240 9.7.2018.