

Judgment of the Court (Grand Chamber) of 11 June 2020 — European Commission v Dôvera zdravotná poisťovňa a.s., Slovak Republic, Union zdravotná poisťovňa a.s.

(Joined Cases C-262/18 P and C-271/18 P) ⁽¹⁾

(Appeal — State aid — Article 107(1) TFEU — Social security system — Health insurance bodies — Concepts of ‘undertaking’ and ‘economic activity’ — Social objective — Principle of solidarity — State supervision — Overall assessment — Possibility of seeking profits — Residual competition on quality and on health insurance services offered)

(2020/C 271/03)

Language of the case: English

Parties

(Case C-262/18)

Appellant: European Commission (represented by: F. Tomat and P.-J. Loewenthal, acting as Agents)

Intervener in support of the appellant: Republic of Finland (represented by: S. Hartikainen, acting as Agent)

Other parties to the proceedings: Dôvera zdravotná poisťovňa a.s. (represented by: F. Roscam Abbing, A. Pliego Selie and O. W. Brouwer, advocaten), Slovak Republic (represented by: M. Kianička, D. Kaiserová and B. Ricziová, acting as Agents), Union zdravotná poisťovňa a.s. (represented by A.M. ter Haar, A. Kleinhout and J.K. de Pree, advocaten)

(Case C-271/18)

Appellant: Slovak Republic (represented by: M. Kianička, D. Kaiserová and B. Ricziová, acting as Agents)

Intervener in support of the appellant: Republic of Finland (represented by: S. Hartikainen, acting as Agent)

Other parties to the proceedings: Dôvera zdravotná poisťovňa a.s. (represented by: F. Roscam Abbing, A. Pliego Selie and O. W. Brouwer, advocaten), European Commission (represented by: F. Tomat and P.-J. Loewenthal, acting as Agents), Union zdravotná poisťovňa a.s. (represented by: A.M. ter Haar, A. Kleinhout and J.K. de Pree, advocaten)

Operative part of the judgment

The Court:

1. Sets aside the judgment of the General Court of the European Union of 5 February 2018, *Dôvera zdravotná poisťovňa v Commission* (T-216/15, not published, EU:T:2018:64);
2. Dismisses the action brought by *Dôvera zdravotná poisťovňa a.s.* in Case T-216/15;
3. Orders *Dôvera zdravotná poisťovňa a.s.*, to pay the costs incurred by the European Commission in the context of the present appeals and of the proceedings before the General Court of the European Union; to bear its own costs incurred in the context of the present appeals and of the proceedings before the General Court of the European Union; and to pay the costs incurred by the Slovak Republic in the context of the present appeals;
4. Orders the Slovak Republic to bear its own costs incurred in the context of the proceedings before the General Court of the European Union;
5. Orders *Union zdravotná poisťovňa a.s.* to bear its own costs incurred in the context of the present appeals and of the proceedings before the General Court of the European Union;

6. Orders the Republic of Finland to bear its own costs incurred in the context of the present appeals.

(¹) OJ C 231, 2.7.2018.
OJ C 259, 23.7.2018.

Judgment of the Court (Fifth Chamber) of 18 June 2020 (request for a preliminary ruling from the Fővárosi Közigazgatási és Munkügyi Bíróság — Hungary) — KrakVet Marek Batko sp.k. v Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága

(Case C-276/18) (¹)

(Reference for a preliminary ruling — Common system of value added tax (VAT) — Directive 2006/112/EC — Article 33 — Determination of the place where taxable transactions are carried out — Supply of goods with transport — Supply of goods dispatched or transported by or on behalf of the supplier — Regulation (EU) No 904/2010 — Articles 7, 13 and 28 to 30 — Cooperation between the Member States — Exchange of information)

(2020/C 271/04)

Language of the case: Hungarian

Referring court

Fővárosi Közigazgatási és Munkügyi Bíróság

Parties to the main proceedings

Applicant: KrakVet Marek Batko sp.k.

Defendant: Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága

Operative part of the judgment

1. Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax and Articles 7, 13 and 28 to 30 of Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax must be interpreted as not precluding the tax authorities of a Member State from being able, unilaterally, to subject transactions to value added tax treatment different from that under which they have already been taxed in another Member State.
2. Article 33 of Directive 2006/112 must be interpreted as meaning that, when goods sold by a supplier established in one Member State to purchasers residing in another Member State are delivered to those purchasers by a company recommended by that supplier, but with which the purchasers are free to enter into a contract for the purpose of that delivery, those goods must be regarded as dispatched or transported 'by or on behalf of the supplier' where the role of that supplier is predominant in terms of initiating and organising the essential stages of the dispatch or transport of those goods, which it is for the referring court to ascertain, taking account of all the facts of the dispute in the main proceedings.
3. EU law and, in particular, Directive 2006/112 must be interpreted as meaning that it is not necessary to find that transactions by which goods sold by a supplier are delivered to purchasers by a company recommended by that supplier constitute an infringement of the law when, on the one hand, there is a connection between the supplier and that company, in the sense that, irrespective of that delivery, the company takes charge of some of the supplier's logistical needs, but, on the other hand, the purchasers remain free to make use of another company or personally collect the goods, since those circumstances are not liable to affect the finding that the supplier and the transport company recommended by it are independent companies which engage, on their own behalf, in genuine economic activities and, consequently, those transactions cannot be classified as abusive.

(¹) OJ C 311, 3.9.2018.