

Questions referred

1. In the event of termination of a financial leasing agreement, does the provision contained in Article 90(1) of Directive 2006/112/EC⁽¹⁾ on the common system of VAT allow the taxable amount to be reduced and the VAT to be refunded where the VAT *has been established by way of a definitive tax assessment notice* on the basis of a taxable amount consisting of the sum of the monthly leasing instalments due throughout the term of the agreement?
2. If the first question is answered in the affirmative: in the event of termination of a leasing agreement on account of partial non-payment of the leasing instalments owed, on which of the situations referred to in Article 90(1) of the directive can the lessor rely as against a Member State in order to have the taxable amount for VAT purposes reduced to the extent of the instalments that were owed but not paid in respect of the period from the cessation of payments to the time of termination of the agreement, in the case where the termination is not retroactive and this is confirmed by a clause in the agreement itself?
3. Does the interpretation of Article 90(2) of the VAT Directive permit the conclusion that a situation such as that at issue here involves a derogation from Article 90(1) of the VAT Directive?
4. Does the interpretation of Article 90(1) of the VAT Directive permit the assumption that the term 'refusal' used in that provision includes the situation where, in the context of a financial leasing agreement with definite transfer of ownership, the lessor may no longer demand payment of the leasing instalments from the lessee because he has terminated the leasing agreement on account of non-fulfilment of that agreement by the lessee, *but is entitled, under that agreement, to compensation in the amount of all the unpaid leasing instalments that would have fallen due up to the end of the term of the lease?*

⁽¹⁾ OJ 2006 L 347, p. 1.

**Request for a preliminary ruling from the Conseil d'État (France) lodged on 12 April 2018 —
Syndicat des cadres de la sécurité intérieure v Premier ministre, Ministre d'État, Ministre de
l'Intérieur, Ministre de l'Action et des Comptes public**

(Case C-254/18)

(2018/C 211/21)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Applicant: Syndicat des cadres de la sécurité intérieure

Defendants: Premier ministre, Ministre d'État, Ministre de l'Intérieur, Ministre de l'Action et des Comptes public

Questions referred

1. Must Articles 6 and 16 of Directive 2003/88/EC of 4 November 2003 concerning certain aspects of the organisation of working time⁽¹⁾ be interpreted as imposing a reference period determined on a rolling basis or as allowing Member States to choose whether to employ a rolling or fixed reference period?

2. If those provisions are to be interpreted as requiring a rolling reference period, may the possibility afforded by Article 17 to derogate from Article 16(b) relate not only to the duration of the reference period but also to the requirement for a rolling period?

⁽¹⁾ Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time (OJ 2003 L 299, p. 9).

**Request for a preliminary ruling from the Conseil d'État (France) lodged on 19 April 2018 — UPM
France v Premier ministre, Ministre de l'Action et des Comptes publics**

(Case C-270/18)

(2018/C 211/22)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Appellant: UPM France

Respondent: Premier ministre, Ministre de l'Action et des Comptes publics

Questions referred

1. Must [...] Article 21[(5), third subparagraph] of Directive [2003/96] ⁽¹⁾ be interpreted as meaning that the tax exemption which that provision allows Member States to grant to small producers of electricity, provided that they tax the energy products used for the production of that electricity, may apply in circumstances such as those described in paragraph 7 of the present decision for the period prior to 1 January 2011 during which France, as was permitted by the directive, had not yet introduced domestic tax on final consumption of electricity or, accordingly, the exemption of small producers from that tax?
2. If the answer to the first question is in the affirmative, how must [...] Article 14[(1)(a)] and [...] Article 21[(5), third subparagraph] of Directive 2003/96 be combined as regards small producers which consume the electricity that they produce for the purposes of their business? Specifically, do those Articles require that there be a minimal level of taxation resulting from either (i) the electricity produced being taxed and the natural gas used being exempted from tax, or (ii) the production of electricity being exempt from tax and the State then being required to tax the natural gas used?

⁽¹⁾ Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (OJ 2003 L 283, p. 51).