

2. The provisions of Council Directive 2008/9/EC of 12 February 2008 laying down detailed rules for the refund of value added tax, provided for in Directive 2006/112/EC, to taxable persons not established in the Member State of refund but established in another Member State, must be interpreted as precluding a Member State from denying the right to a refund of value added tax to a taxable person established in the territory of another Member State on the sole ground that that taxable person is or should have been identified for value added tax purposes in the Member State of refund.

⁽¹⁾ OJ C 206, 17.6.2019.

Judgment of the Court (Eighth Chamber) of 18 June 2020 (request for a preliminary ruling from the Korkein hallinto-oikeus — Finland) — proceedings brought by Porin kaupunki

(Case C-328/19) ⁽¹⁾

(Reference for a preliminary ruling — Public procurement — Directive 2004/18/EC — Article 1(2)(a) — Public procurement in the field of transport services — Cooperation agreement between municipalities regarding the organisation and provision of social and healthcare services based on the model of the ‘municipality responsible’ under Finnish law — Transfer of responsibility for the organisation of the services to one of the municipalities in the relevant cooperation zone — In-house contract — Award of contract for transport services to a company wholly owned by the municipality responsible without a call for tenders)

(2020/C 271/23)

Language of the case: Finnish

Referring court

Korkein hallinto-oikeus

Parties to the main proceedings

Applicant: Porin kaupunki

Other party to the proceedings: Porin Linjat Oy, Lyttylän Liikenne Oy

Operative part of the judgment

1. Article 1(2)(a) of Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts must be interpreted as meaning that an agreement under which the municipalities party to that agreement confer on one of them the responsibility for organising services for those municipalities is excluded from the scope of that directive on the ground that it is a transfer of responsibilities under Article 4(2) TEU, as interpreted in the judgment of 21 December 2016, *Remondis* (C-51/15, EU:C:2016:985).
2. Article 1(2)(a) of Directive 2004/18 must be interpreted as meaning that, under a cooperation agreement in which the municipalities party to that agreement transfer to one of those municipalities the responsibility for organising services for those municipalities, that municipality may be regarded, in the event that contracts are awarded after responsibilities have been transferred, as a contracting authority and that municipality is entitled, without first issuing a call for tenders, to confer on an in-house entity responsibility for services covering not only its own needs, but also those of the other municipalities party to that agreement when, without that transfer of responsibilities, those municipalities themselves would have had to fill the vacancy for their own needs.

⁽¹⁾ OJ C 220, 1.7.2019.