

**Request for a preliminary ruling from the Fővárosi Közigazgatási és Munkaügyi Bíróság (Hungary) lodged on 10 April 2019 — PORR Építési Kft. v Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága**

(Case C-292/19)

(2019/C 220/24)

*Language of the case: Hungarian*

**Referring court**

Fővárosi Közigazgatási és Munkaügyi Bíróság

**Parties to the main proceedings**

*Applicant:* PORR Építési Kft.

*Defendant:* Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága

**Questions referred**

1. Should Article 90(1) and (2) of the VAT Directive <sup>(1)</sup> be interpreted as meaning that Member States must allow the reduction of the VAT taxable amount where it can be demonstrated definitively that the taxable person has not received all or part of the consideration in respect of the transaction entered into by that person?
2. Should the case-law of the Court of Justice of the European Union be interpreted, taking into account, in particular, the judgments in *Almos*, (C-337/13), paragraph 23, *Di Maura*, (C-246/16), paragraphs 20 to 29, and, by analogy, *T-2*, (C-396/16), paragraphs 31 to 45, as meaning that, as regards the obligation of the Member States, laid down in Article 90(1) of the VAT Directive, to reduce a posteriori the taxable amount, a distinction must be made between total or partial non-payment of the consideration by the purchaser and the situation in which the sum due to the seller has become definitively unrecoverable, so that, in the first situation, the Member State may make use of the exception provided for in Article 90(2), whereas in the second situation use of that exception is precluded and the Member State must, in any event, permit the taxable amount to be reduced a posteriori?

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<sup>(1)</sup> Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p.1)

**Request for a preliminary ruling from the Lietuvos vyriausiasis administracinis teismas (Lithuania) lodged on 16 April 2019 — XT v Valstybinė mokesčių inspekcija prie Lietuvos Respublikos finansų ministerijos**

(Case C-312/19)

(2019/C 220/25)

*Language of the case: Lithuanian*

**Referring court**

Lietuvos vyriausiasis administracinis teismas

**Parties to the main proceedings**

*Applicant:* XT

*Defendant:* Valstybinė mokesčių inspekcija prie Lietuvos Respublikos finansų ministerijos

**Questions referred**

1. Are Article 9(1) and Article 193 of Council Directive 2006/112/EC <sup>(1)</sup> of 28 November 2006 on the common system of value added tax to be interpreted as meaning that, in circumstances such as those in the case under consideration, a natural person such as the applicant cannot be regarded as having 'independently' carried out the (economic) activity in question and as having to pay by himself the value added tax on the contested supplies, that is to say, for the purposes of Article 9(1) and Article 193 of Directive 2006/112/EC, is the taxable person liable for the obligations at issue to be taken to be the joint activity/partnership (the participants in the joint activity collectively; in the instance under consideration, the applicant and his business partner collectively) — which under national law is not regarded as a taxable person and does not enjoy legal personality — and not solely a natural person such as the applicant?
2. If the first question is answered in the affirmative, is Article 193 of Directive 2006/112/EC to be interpreted as meaning that, in circumstances such as those in the case under consideration, VAT is paid individually by each of the participants (in the instance under consideration, the applicant and his business partner) in the joint activity/partnership — which joint activity/partnership is, under national law, not regarded as constituting a taxable person and does not enjoy legal personality — on the part of each payment by way of consideration that is received by them (or is receivable by or owed to them) for the taxable supplies of immovable property? Is Article 287 of Directive 2006/112/EC to be interpreted as meaning that, in such circumstances such as those in this case, the annual turnover referred to in that provision is established by taking into account the entire revenue of the joint activity (received collectively by the participants in the joint activity)?

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<sup>(1)</sup> OJ 2006 L 347, p. 1.

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**Request for a preliminary ruling from the Oberverwaltungsgericht für das Land  
Nordrhein-Westfalen (Germany) lodged on 18 April 2019 — BY and CZ v Federal Republic of Germany**

**(Case C-321/19)**

(2019/C 220/26)

*Language of the case: German*

**Referring court**

Oberverwaltungsgericht für das Land Nordrhein-Westfalen

**Parties to the main proceedings**

*Applicants:* BY, CZ