3. Can the 'scheduled time of arrival' of a flight within the meaning of Article 2(h), Article 5(1)(c), the second sentence of Article 7(1) and Article 7(2) of Regulation No 261/2004 be determined, for the purposes of compensation for cancellation or long delay in arrival, from 'other proof' issued to a passenger by a tour operator, or must the ticket pursuant to Article 2(f) of this regulation be taken into account for that purpose?

(1) Regulation of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 (OJ 2004 L 46, p. 1).

Request for a preliminary ruling from the Landgericht Hamburg (Germany) lodged on 13 May 2020 — Bayer Intellectual Property GmbH v kohlpharma GmbH

(Case C-204/20)

(2020/C 271/33)

Language of the case: German

Referring court

Landgericht Hamburg

Parties to the main proceedings

Applicant: Bayer Intellectual Property GmbH

Defendant: kohlpharma GmbH

Questions referred

1. Is Article 47a of Directive 2001/83/EC (1) to be interpreted as meaning that, in the case of parallel imported products, the measures for the removal and reaffixing of the safety features pursuant to point (o) of Article 54 of Directive 2001/83/EC, which are carried out by the parallel importer either by means of relabelling (use of adhesive labels on the original secondary packaging) or by means of reboxing (production of new secondary packaging for the medicinal product), can be considered equivalent if both measures otherwise comply with all the requirements set out in Directive 2011/62/EU ('Falsified Medicines Directive') (2) and Delegated Regulation (EU) 2016/161 ('Delegated Regulation') (3) and are equally effective in enabling the verification of authenticity and identification of medicinal products and in providing evidence of tampering with medicinal products?

2. If the first question is to be answered in the affirmative: In the light of the new anti-falsification rules, can a trade mark owner oppose the repackaging of the product in new external packaging ('reboxing') by a parallel importer where the parallel importer is also able to achieve packaging which may be marketed in the Member State of importation by merely affixing new adhesive labels to the original secondary packaging ('relabelling')?

3. If the second question is to be answered in the affirmative, is it the case that no harm is done if, in the case of relabelling, it is apparent to the relevant public that a safety feature of the original supplier has been damaged, as long as it is ensured that the parallel importer is responsible for this and has affixed a new safety feature to the original secondary packaging? Does it make any difference whether the signs of opening become visible only when the secondary packaging of a medicinal product is opened?

4. If Question 2 and/or 3 is to be answered in the affirmative, must repackaging by means of 'reboxing' nevertheless be deemed to be objectively necessary within the meaning of the five conditions for exhaustion in respect of the repackaging (see judgments of 11 July 1996, *Bristol-Myers Squibb and Others*, C-427/93, C-429/93 and C-436/93, EU:C:1996:282, paragraph 79, and of 26 April 2007, *Boehringer Ingelheim and Others*, C-348/04, EU:C:2007:249, paragraph 21) if the national authorities state, in their current guidelines for implementing the requirements of the Falsified Medicines Directive or other such announcements of the authorities, that the resealing of opened packaging is not normally accepted or, at least, is accepted only on an exceptional basis and under strict conditions?

([1]) Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use (OJ 2001 L 311, p. 67).

([2]) Directive 2011/62/EU of the European Parliament and of the Council of 8 June 2011 amending Directive 2001/83/EC on the Community code relating to medicinal products for human use, as regards the prevention of the entry into the legal supply chain of falsified medicinal products (OJ 2011 L 174, p. 74).

([3]) Commission Delegated Regulation (EU) 2016/161 of 2 October 2015 supplementing Directive 2001/83/EC of the European Parliament and of the Council by laying down detailed rules for the safety features appearing on the packaging of medicinal products for human use (OJ 2016 L 32, p. 1).

Request for a preliminary ruling from the Niedersächsisches Finanzgericht (Germany) lodged on 2 June 2020 — I GmbH v Finanzamt H

(Case C-228/20)

(2020/C 271/34)

Language of the case: German

Referring court

Niedersächsisches Finanzgericht

Parties to the main proceedings

Applicant: I GmbH

Defendant: Finanzamt H

Questions referred

1. Is Paragraph 4, point 14(b), of the Umsatzsteuergesetz (Law on Turnover Tax) (UStG) compatible with Article 132(1)(b) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ('the VAT Directive'), ([1]) in so far as hospitals which are not bodies governed by public law qualify for exemption from tax on condition that they are approved within the meaning of Paragraph 108 of the Sozialgesetzbuch (SGB) V (Social Security Code, Book V)?

2. If Question 1 is to be answered in the negative: When do hospitals governed by private law provide hospital care under social conditions comparable with those applicable to bodies governed by public law within the meaning of Article 132 (1)(b) of the VAT Directive?

([1]) OJ 2006 L 347, p. 1.