

**Questions referred**

1. Must Article 23 and Article 32(1) of Directive 2009/73/EC <sup>(1)</sup> be interpreted as meaning that Member States must adopt a regulatory framework permitting any final customer to choose which type of network — transmission or distribution — he wishes to connect to and imposing on the network operator an obligation to allow him to connect to the network in question?
2. Must Article 23 of Directive 2009/73/EC be interpreted as meaning that Member States have an obligation to adopt a regulatory framework permitting only a non-household final customer (that is to say, only an industrial customer) to connect to the natural gas transmission network?
3. Must Article 23 of Directive 2009/73/EC, in particular the concept of ‘new industrial customer’, be interpreted as meaning that that article lays down an obligation for Member States to adopt a regulatory framework permitting only a non-household final customer (that is to say, only an industrial customer) who has not previously been connected to the distribution network to connect to the natural gas transmission network?
4. Must Article 2(3) and Article 23 of Directive 2009/73/EC be interpreted as meaning that they preclude a regulatory framework enacted by a Member State according to which the transmission of natural gas includes the transmission of natural gas directly to the final customer’s natural gas supply network?

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<sup>(1)</sup> Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC (OJ 2009 L 211, p. 94).

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**Request for a preliminary ruling from the Conseil d’État (France) lodged on 6 July 2020 — Icade  
Promotion Logement SAS v Ministre de l’Action et des Comptes Publiques**

(Case C-299/20)

(2020/C 297/47)

*Language of the case: French*

**Referring court**

Conseil d’État

**Parties to the main proceedings**

*Applicant:* Icade Promotion Logement SAS

*Defendant:* Ministre de l’Action et des Comptes Publiques

**Questions referred**

1. Is Article 392 of [Council] Directive [2006/112/EC] of 28 November 2006 <sup>(1)</sup> [on the common system of value added tax] to be interpreted as reserving the application of the margin taxation scheme to transactions for the supply of immovable property the purchase of which has been subject to VAT, without the taxable person who subsequently resells the property having the right to deduct that tax, or does it permit that scheme to be applied to transactions for the supply of immovable property the purchase of which has not been subject to VAT, either because that purchase falls outside the scope of VAT or because it falls within the scope of VAT but is exempt from it?
2. Is Article 392 of Directive [2006/112] to be interpreted as excluding the application of the margin taxation scheme to transactions for the supply of building land in the following two cases:
  - where that land, purchased as land that has not been built on, becomes building land in the time between it is purchased and resold by the taxable person;

- where that land, in the time between it is purchased and resold by the taxable person, is developed, in the sense that it is divided into parcels or works are carried out in order to install services (roads, drinking water, electricity, gas, sewage, telecommunications)?

(<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).

## Action brought on 22 July 2020 — European Commission v Republic of Austria

(Case C-328/20)

(2020/C 297/48)

Language of the case: German

### Parties

*Applicant:* European Commission (represented by: D. Martin and B.-R. Killmann, acting as Agents)

*Defendant:* Republic of Austria

### Form of order sought

The applicant claims that the Court should:

- declare that, by introducing an adjustment mechanism in relation to the family allowance and the child tax credit for workers whose children reside permanently in another Member State, the Republic of Austria has failed to fulfil its obligations under Article 7 and Article 67 of Regulation (EC) No 883/2004 (<sup>1</sup>) and under Article 4 of Regulation No 883/2004 and Article 7(2) of Regulation (EU) No 492/2011; (<sup>2</sup>)
- declare that, by introducing an adjustment mechanism in relation to the *Familienbonus Plus* ('Family Bonus Plus' tax credit), the sole earner's allowance, the single parent's allowance and the tax credit for maintenance payments, for migrant workers whose children reside permanently in another Member State, the Republic of Austria has also failed to fulfil its obligations under Article 7(2) of Regulation No 492/2011;
- order the Republic of Austria to pay the costs.

### Pleas in law and main arguments

Austria grants to persons who work in Austria, for their children, in the form of single lump sums, the family benefit and social advantage of the family allowance and the child tax credit as well as the tax advantage of the Family Bonus Plus, the sole earner's allowance, the single parent's allowance and the tax credit for maintenance payments. Since 1 January 2019, Austrian rules have provided that those State benefits are to be adjusted in line with the general price level of the child's Member State of residence.

#### First plea in law:

The Commission submits that the family allowance and the child tax credit are a family benefit within the meaning of Regulation No 883/2004. Article 7 and Article 67 of that regulation prohibit a Member State from making the granting and the amount of family benefits dependent on the residence of the members of the worker's family in the Member State providing the benefits. However, by introducing the adjustment, Austria is making its treatment of family benefits for children dependent on the children's Member State of residence. In doing so, Austria is infringing Article 7 and Article 67 of Regulation No 883/2004.

#### Second plea in law:

The Commission also submits that the adjustment, as introduced by Austria, places beneficiaries whose children reside in Member States with a higher price level in a better position than persons whose children reside in Austria, whereas persons whose children reside in Member States with a low price level are treated less favourably. When it introduced the adjustment, Austria, however, expected savings in its national budget, which can only mean that there are more recipients of such benefits and advantages whose children reside in Member States with a lower price level than in Austria.