

Questions referred

- 1) May a natural person who enters into a partnership contract with other natural persons, a partnership without legal personality that is not declared or registered for tax purposes, intended for the execution of future works (building) on a site forming part of the personal assets of some of the contracting parties be regarded, in the light of the circumstances of the main case, as a taxable person for VAT purposes within the meaning of Article 9(1) of the VAT Directive ⁽¹⁾, where, under the fiscal rules, the tax authorities initially treated the transfer of ownership of the buildings on the site forming part of the personal assets of some of the contracting parties as sales falling within the scope of the management of the private wealth of such persons?
- 2) In the light of the circumstances of the main case, must the principles of legal certainty and the protection of legitimate expectations, and the other general principles relating to VAT, as laid down in Directive 2006/112, be interpreted as precluding a national practice whereby, after initially levying on a natural person tax on the income deriving from the transfer of ownership of properties forming part of his personal wealth, the tax authorities — without there having been any substantial amendment of primary law — review the position after a period of two years on the basis of the same facts and classifies the same transactions as economic activities subject to VAT, calculating the incidental charges retroactively?
- 3) Must Articles 167, 168 and 213 of the VAT Directive, considered in the light of the principle of fiscal neutrality, be interpreted as precluding, in the circumstances of the main case, the tax authorities from refusing a taxable person the right to deduct the VAT owed or paid on goods or services used for the purposes of taxable transactions simply because he was not registered as a taxable person for VAT purposes at the time when the supplies in question were carried out?
- 4) In the light of the circumstances of the main case, may Article 179 of [Directive 2006/112] be interpreted as precluding national legislation under which a taxable person to whom the special exemption scheme is applied and who has belatedly applied for registration for VAT purposes is under an obligation to pay the tax that should have been levied, but has no right to subtract the amount of tax deductible for each tax period, it being the case that that right of deduction will be exercised subsequently on the basis of the tax return submitted after registration of the taxable person for VAT purposes, which may have repercussions for calculation of the incidental charges?

⁽¹⁾ 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 Amtsgericht Laufen (Germany) lodged on 30 April 2014 —
Criminal proceedings against Gavril Covaci**

(Case C-216/14)

(2014/C 253/22)

Language of the case: German

Referring court

Amtsgericht Laufen

Parties to the main proceedings

Gavril Covaci

Other party: Staatsanwaltschaft Traunstein

Questions referred

1. Are Articles 1(2), 2(1) and 8 of Directive 2010/64/EU ⁽¹⁾ to be interpreted as precluding a court order that requires, under Paragraph 184 of the German Law on the Judicial System, accused persons to bring an appeal only in the language of the court, here in German, in order for it to be effective?

2. Are Articles 2, 3(1)(c), 6(1) and 6(3) of Directive 2012/13/EU⁽²⁾ to be interpreted as precluding the accused from being required to appoint a person authorised to accept service, where the period for bringing an appeal begins to run upon service on the person authorised and ultimately it is irrelevant whether the accused is at all aware of the offence of which he is accused?

⁽¹⁾ Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings, OJ 2010 L 280, p. 1.

⁽²⁾ Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings, OJ 2012 L 142, p. 1.

Action brought on 20 May 2014 — European Commission v Republic of Austria

(Case C-244/14)

(2014/C 253/23)

Language of the case: German

Parties

Applicant: European Commission (represented by: G. Braun and J. Hottiaux, acting as Agents)

Defendant: Republic of Austria

Form of order sought

The applicant claims that the Court should:

- declare that the Republic of Austria has failed to fulfil its obligations under Directive 2004/49/EC in so far as it failed to fully to transpose Articles 3(k), 10(5), 11(2), 17(1), 19(2), 22(3) and 25(3) of that directive;
- order the Republic of Austria to pay the costs.

Pleas in law and main arguments

Following an examination of the legal position in the Republic of Austria, the Commission expressed concerns regarding the correct transposition of some of the provisions of Directive 2004/49/EC⁽¹⁾. The concerns relate essentially to provisions concerning safety certification and safety authorisation, national safety authorities, investigations, the investigation body and safety recommendations.

⁽¹⁾ OJ 2004 L 164, p. 44.

Request for a preliminary ruling from the Conseil d'État (France) lodged on 26 May 2014 — Air France — KLM v Ministère des finances et des comptes publics

(Case C-250/14)

(2014/C 253/24)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Applicant: Air France — KLM

Defendant: Ministère des finances et des comptes publics