

**Request for a preliminary ruling from the Bundesfinanzhof (Germany) lodged on 3 January 2018 —
Jochen Eisenbeis, acting as liquidator in the insolvency of JUREX GmbH v Bundeszentralamt für
Steuern**

(Case C-5/18)

(2018/C 123/14)

Language of the case: German

Referring court

Bundesfinanzhof

Parties to the main proceedings

Applicant: Jochen Eisenbeis, acting as liquidator in the insolvency of JUREX GmbH

Defendant: Bundeszentralamt für Steuern

Questions referred

1. Is the formal service of documents pursuant to provisions of public law (rules governing court procedure and laws governing service in administrative procedures — Paragraph 33(1) of the Postgesetz (Law on postal services) — a universal postal service under Article 3(4) of Directive 97/67/EC of 15 December 1997 ⁽¹⁾ (the Postal Directive)?

2. If Question 1 is to be answered in the affirmative:

Is an undertaking which effects the formal service of documents pursuant to provisions of public law a ‘universal service provider’, within the meaning of Article 2.13 of Directive 97/67/EC of 15 December 1997, providing a universal postal service in whole or in part, and is such service exempt from tax under Article 132(1)(a) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax? ⁽²⁾

⁽¹⁾ Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service (OJ 1998 L 15, p. 14).

⁽²⁾ OJ 2006 L 347, p. 1.

**Request for a preliminary ruling from the Verwaltungsgerichtshof (Austria) lodged on 9 January
2018 — Michael Dobersberger**

(Case C-16/18)

(2018/C 123/15)

Language of the case: German

Referring court

Verwaltungsgerichtshof

Parties to the main proceedings

Appellant: Michael Dobersberger

Other party: Magistrat der Stadt Wien

Questions referred

1. Does the scope of Directive 96/71/EC ⁽¹⁾ of 16 December 1996 concerning the posting of workers in the framework of the provision of services (also referred to hereafter as the Directive for short), in particular Article 1(3)(a), also cover the provision of services such as the provision of food and drink to passengers, on-board service or cleaning services by the workers of a service-providing undertaking established in the Member State of posting (Hungary) in performance of a contract with a railway undertaking established in the host Member State (Austria) when these services are provided on international trains which also travel through the host Member State?
2. Does Article 1(3)(a) of the Directive also cover the situation where the service-providing undertaking established in the Member State of posting provides the services mentioned in Question 1 not in performance of a contract with the railway undertaking established in the host Member State, which is the ultimate beneficiary of the services (recipient of the services), but rather in performance of a contract with another undertaking based in the host Member State which, in turn, is in a contractual relationship (subcontracting chain) with the railway undertaking?
3. Does Article 1(3)(a) of the Directive also cover the situation where, to provide the services mentioned in Question 1, the service-providing undertaking established in the Member State of posting does not use its own workers but uses workers of another undertaking which were hired out to it back in the Member State of posting?
4. Irrespective of the answers to Questions 1 to 3: Does EU law, in particular the freedom to provide services (Article 56 and 57 TFEU), preclude a provision of national law which also mandatorily requires undertakings which post workers to the territory of another Member State for the purpose of providing a service to comply with terms and conditions of employment within the meaning of Article 3(1) of the Directive and to comply with accompanying obligations (such as, in particular, the obligation to provide a notification regarding the cross-border posting of workers to a public authority in the host Member State and the obligation to retain documents relating to the level of remuneration and to the social security registration of these workers) in situations in which (firstly) the workers posted across borders form part of the mobile staff of a railway undertaking that is active on a cross-border basis or of an undertaking which provides services typical for a railway undertaking (provision of food and drink to passengers, on-board service) on that undertaking's trains which cross the borders of the Member States, and in which (secondly) the posting is based either on no service contract at all or at least on no service contract between the undertaking making the posting and the recipient of the services which is active in another Member State, because the posting undertaking's obligation to provide services to the recipient of the services which is active in another Member State is established by way of subcontracts (a subcontracting chain), and in which (thirdly) the posted worker is not in an employment relationship with the undertaking making the posting but rather is in an employment relationship with a third-party undertaking which has hired out its workers to the undertaking making the posting back in the Member State in which the posting undertaking is established?

⁽¹⁾ Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services, OJ 1997 L 18, p. 1.

**Request for a preliminary ruling from the Tribunalul Mureş (Romania) lodged on 9 January 2018 —
Criminal proceedings against Virgil Mailat, Delia Elena Mailat and Apcom Select SA**

(Case C-17/18)

(2018/C 123/16)

Language of the case: Romanian

Referring court

Tribunalul Mureş

Parties to the main proceedings

Virgil Mailat, Delia Elena Mailat and Apcom Select SA