offences is relevant, transferring the decision on the imposition of tax surcharges from the Skatteverket and, where appropriate, administrative courts to ordinary courts in connection with their examination of the charge of tax offences?

Reference for a preliminary ruling from the Latvijas Republikas Augstâkâs tiesas Senâts (Republic of Latvia) lodged on 29 December 2010 — Trade Agency Limited v Seramico Investments Limited

(Case C-619/10)

(2011/C 72/25)

Language of the case: Latvian

Referring court

Latvijas Republikas Augstâkâs tiesas Senâts

Parties to the main proceedings

Applicant: Trade Agency Limited

Defendant: Seramico Investments Limited

Questions referred

1. Where a decision of a foreign court is accompanied by the certificate provided for in Article 54 of Regulation No 44/2001 ([1]), but the defendant nevertheless objects on the ground that he was not served with notice of the action brought in the Member State of origin, is a court in the Member State where enforcement is sought competent, when considering a ground for withholding recognition provided for in Article 34(2) of Regulation No 44/2001, to examine for itself the conformity with the evidence of the information contained in the certificate? Is such wide jurisdiction on the part of a court in the Member State in which enforcement is sought compatible with the principle of mutual trust in the administration of justice set out in recitals 16 and 17 to Regulation No 44/2001?

2. Is a decision given in default of appearance, which disposes of the substance of a dispute without examining either the subject-matter of the claim or the grounds on which it is based and sets out no reasoning as to the substantive basis of the claim, compatible with Article 47 of the Charter and does it not infringe the defendant's right to a fair hearing, laid down by the provision?

([1]) Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2001 L 12, p. 1).

Reference for a preliminary ruling from the Kammarrätten I Stockholm — Migrationsöverdomstolen (Sweden) lodged on 27 December 2010 — Migrationsverket v Nurije Kastrati, Valdrina Kastrati, Valdrin Kastrati

(Case C-620/10)

(2011/C 72/26)

Language of the case: Swedish

Referring court

Kammarrätten I Stockholm — Migrationsöverdomstolen

Parties to the main proceedings

Applicant: Migrationsverket

Defendants: Nurije Kastrati, Valdrina Kastrati, Valdrin Kastrati

Questions referred

1. In the light inter alia of the stipulations of Article 5(2) of Regulation No 343/2003 ([1]) and/or the absence of provisions in the regulation on the cessation of a Member State's responsibility to examine an asylum application other than those contained in the second subparagraph of Article 4(5) and Article 16(3) and (4), is Regulation No 343/2003 to be interpreted as meaning that the withdrawal of an asylum application does not affect the possibility of applying the regulation?

2. Is the stage in the process at which the asylum application is withdrawn relevant in answering the question set out above?

([1]) Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national, OJ 2003 L 50, p. 1

Reference for a preliminary ruling from the Administrativen sad Varna (Bulgaria) lodged on 29 December 2010 — 'Balkan and Sea Properties' ADSITS v Director of the Varna Office 'Appeals and the Administration of Enforcement' (Direktor na Direktsia 'Obzhalvane i upravlenie na izpalnenieto' — Varna)

(Case C-621/10)

(2011/C 72/27)

Language of the case: Bulgarian

Referring court

Administrativen sad Varna

Parties to the main proceedings

Applicant: 'Balkan and Sea Properties' ADSITS

Defendant: Director of the Varna Office 'Appeals and the Administration of Enforcement' (Direktor na Direktsia 'Obzhalvane i upravlenie na izpalnenieto' — Varna)

Questions referred

1. Is Article 80(1)(c) of Council Directive 2006/112/EC ([1]) of 28 November 2006 on the common system of value added tax to be interpreted as meaning that where there are supplies between connected persons, in so far as the consideration is higher than the open market value, the taxable amount is the open market value of the transaction only if the supplier does not qualify for the full right to deduct the VAT chargeable on the purchase or production of the goods which are supplied?

2. Is Article 80(1)(c) of Directive 2006/112 to be interpreted as meaning that, if the supplier has exercised the full right to deduct VAT on goods and services which are the subject of subsequent supplies between connected persons at a price which is higher than the open market value, and that right to deduct input VAT has not been corrected under Articles 173 to 177 of that Directive, a Member State is not permitted to adopt measures whereby the taxable amount is exclusively the open market value?

3. Does Article 80(1) of Directive 2006/112 constitute an exhaustive list of cases representing the circumstances in which the Member States may take measures whereby the taxable amount in respect of supplies is to be the open market value of the transaction?

4. Is a provision of national law such as Article 27(3)(1) of the Zakon za danak varhu dobavenata stoynost (Law on VAT) permissible in cases other than those listed in Article 80(1)(a), (b) and (c) of Directive 2006/112?

5. In a case such as the present does Article 80(1)(c) of Directive 2006/112 have direct effect, and may the domestic court apply it directly?

([1]) 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 21 December 2010 — European Commission v French Republic

(Case C-624/10)

(2011/C 72/28)

Language of the case: French

Parties

Applicant: European Commission (represented by: M. Afonso, acting as Agent)

Defendant: French Republic

Form of order sought

— declare that, by providing in Title IV of Administrative Instruction No 105 of 23 June 2006 (3 A-9-06) for an administrative concession derogating from a VAT reverse charge scheme and necessitating, among other things, the designation of a tax representative by a seller or provider established outside of France, the French Republic has failed to fulfil its obligations under the VAT Directive and, in particular, Articles 168, 171, 193, 194, 204 and 214 thereof;

— order the French Republic to pay the costs.

Pleas in law and main arguments

By its action, the Commission claims that the French legislation derogating from a VAT reverse charge scheme is, in a number of respects, contrary to the law of the European Union.

Firstly, the taxable persons who wish to benefit from the scheme introduced by Title IV of Administrative Instruction 3 A-9-06 are obliged to designate a tax representative, which is not in accordance with Article 204 of the VAT Directive. That article allows Member States to impose such an obligation only in the case where no instrument exists, with the country in which the taxable person is established, organising mutual assistance in indirect taxation matters similar to that provided for within the European Union.

Secondly, the administrative concession is also subject to the obligation for the seller to identify him or herself for VAT purposes in France, which is not in accordance with Article 214(1) of the VAT Directive. Under that provision the duty to identify oneself for VAT purposes does not apply to those taxable persons who carry out, in the territory of a Member State in which they are not established, supplies of goods or services subject to reverse charge by the customer, in particular in application of Article 194 of the VAT Directive.

Thirdly and finally, the scheme provides for the offsetting of the deductible VAT of the seller or provider against the VAT collected by one or more of his or her customers. That is not in accordance with the provisions of Articles 168 and 171 of the VAT Directive, which provide that the set-off between deductible VAT and collected VAT is to apply on an individual level to each taxable person. Such a derogating scheme also cannot be based upon Article 11 of that directive.