Case C-598/20

Request for a preliminary ruling

Date lodged:

13 November 2020

Referring court:

Satversmes tiesa (Constitutional Court, Latvia)

Date of the decision to refer:

11 November 2020

Applicant:

AS Pilsētas zemes dienests

Institution whose act is contested:

Latvijas Republikas Saeima (Parliament of the Republic of Latvia)

DECISION

ON THE REFERENCE TO THE COURT OF JUSTICE OF THE EUROPEAN UNION FOR A PRELIMINARY RULING

[…] [case number]

Riga, 11 November 2020

The Satversmes tiesa (Constitutional Court), having held a preliminary hearing to examine […] [composition of the referring court]

the file in the case […] on 'The compatibility of Article 1(14)(c) of the Pievienotās vērtības nodokļa likums (Law on value added tax), in so far as it relates to the leasing of land in cases of compulsory leasing, with the first sentence of Article 91 and the first three sentences of Article 105 of the Latvijas Republikas Satversme (Constitution of the Republic of Latvia)' […],

declares:

1 The case […] is being prepared for consideration by the Constitutional Court. The proceedings were commenced following a challenge on grounds of

unconstitutionality brought by the public limited company Pilsētas zemes dienests ('the applicant').

The judge […] has requested that a reference be made to the Court of Justice of the European Union.

[…] [procedural matters]

The Constitutional Court will therefore assess whether there are grounds in the case […] for a decision to request a preliminary ruling from the Court of Justice.

I. Facts of the case

2 On 29 November 2012 the Saeima (Parliament) passed the Law on value added tax, which came into force on 1 January 2013.

Article 1(14)(c) of the Law on value added tax ('the contested provision') provides that a supply of services is a transaction which does not constitute a supply of goods and that, for the purposes of this law, the leasing of property is also deemed a supply of services.

3 **The applicant** considers that, in so far as it concerns the compulsory leasing of land, the contested provision does not comply with the first sentence of Article 91 and the first three sentences of Article 105 of the Constitution of the Republic of Latvia ('the Constitution').

The applicant is a public limited company. It owns a plot of land on which there are multi-family residential buildings that belong to other parties. The plot of land was acquired by the applicant in a lawful transaction. A compulsory leasing arrangement exists between the applicant and the owners of the multi-family residential buildings. The applicant has been registered as a taxable person for the purposes of value added tax since 6 January 2002, and one of its principal activities is the leasing and management of its own or leased property.

Under Article 50(1)(3) of the likums 'Par valsts un pašvaldību dzīvojamo māju privatizāciju' (Law on the privatisation of State and local authority housing), in the event of a compulsory lease, the owner of the land and the owner of the multi-family residential building are required to conclude a lease of the land. The amount of rent to which the applicant was entitled for the compulsory lease was, in turn, determined by the legislation. In the case at issue, the parties failed to reach agreement over the lease and the amount of the rent, and the applicant therefore commenced legal proceedings to obtain the rent for the compulsory leasing of the land, including the value added tax due, from the owners of the housing. The court upheld the claim for payment of the rent for the compulsory lease of the land, but dismissed the claim for payment of value added tax.

The contested provision establishes that the leasing of immovable property, including compulsory leasing, is deemed a service that is subject to value added

tax. This considerably reduces the total income obtained by the landowner from leasing an asset that belongs to it, since the applicant is required to pay value added tax on the rent received under the compulsory lease to the Exchequer. The applicant considers that this is a restriction on its right to property, recognised in Article 105 of the Constitution. It also submits that its right to legal equality, enshrined in the first sentence of Article 91 of the Constitution, has also been breached, since landowners who are not registered as taxable persons for the purposes of value added tax are not required to pay this tax on compulsory leases of land in comparable circumstances.

In its opinion, when the legislature was deciding whether the provision of certain services should be subject to value added tax, it should have considered whether the leasing of immovable property constitutes a service which can, as a general rule, be subject to value added tax, particularly in the case of compulsory leases. In this regard, it should have taken account of European Union legislation, in particular Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (‘Directive 2006/112/EC’). Article 135(1) of Directive 2006/112/EC establishes that the leasing of immovable property is not subject to value added tax. According to the applicant, the exemption is due to the fact that leasing of immovable property is normally a relatively passive activity, which does not generate any significant added value.

4 The **institution whose act is contested**, **the Parliament**, argues that the contested provision complies with the first sentence of Article 91 and the first three sentences of Article 105 of the Constitution.

Article 2(1) of Directive 2006/112/EC establishes that the supply of services for consideration within the territory of a Member State by a taxable person will be subject to value added tax. In its opinion, according to the case-law of the Court of Justice of the European Union, a service is subject to value added tax only if there is a legal connection between the provider of the service and the recipient which involves mutual obligations. It contends that the legal relationship of compulsory leasing must be deemed a legal relationship created by operation of law between the owner of the plot of land and the owner of the building. Under that legal relationship, the owner of the plot of land leases the land to the owner of the building and, in turn, the owner of the building pays the rent due in respect of the compulsory lease to the owner of the plot of land. Therefore, the leasing of land under a compulsory lease must be deemed the provision of a service subject to value added tax.

The Parliament states that Article 135(1)(l) of Directive 2006/112/EC stipulates that Member States must exempt the leasing and letting of immovable property from value added tax. However, Article 135(2) allows Member States to implement exclusions from that exemption; in other words, it permits them to make provision for cases in which the leasing or letting of immovable property is subject to value added tax. The Parliament considers that where a plot of land was acquired with the intention of making a profit and in the knowledge of the

existence of a compulsory leasing arrangement, the legislature was entitled to stipulate that the provision of services is subject to value added tax. Thus, in the case of a compulsory lease, the lease is subject to value added tax where the services are provided by a landowner who is registered as a taxable subject for the purposes of value added tax. In turn, the owner of the building pays the rent stated in the invoice, which also includes the appropriate amount of value added tax.

II. Latvian legislation

5 The first sentence of Article 91 of the Constitution provides that: 'All persons in Latvia are equal before the law and the courts.'

The first three sentences of Article 105 provide that: 'Everyone has the right to own property. Property that is subject to ownership rights may not be used in a manner contrary to the public interest. The right to own property may be restricted only by law.'

6 It is the Law on value added tax that determines which persons are liable to pay value added tax, which transactions are taxed, and the exemptions from the tax.

Article 1(14)(c) of the Law on value added tax provides that a supply of services is a transaction which does not constitute a supply of goods and that, for the purposes of this law, the leasing of property is deemed a supply of services.

Pursuant to Article 5(1)(2) of the Law on value added tax, supplies of services for consideration carried out as part of an economic activity are subject to value added tax. An economic activity is any continuing, independent activity undertaken for consideration, including the exploitation of property for the purposes of obtaining income therefrom on a continuing basis (*see Article 4 of the Law on value added tax*).

In Article 52(1)(25) of the Law on value added tax, the legislature established that the only leasing or rental services that are exempt from value added tax are residential tenancies (with the exception of accommodation services at guest accommodation facilities: hotels, motels, guest houses, houses used for rural tourism, camp sites and tourist accommodation).

Article 34(7) of the Law on value added tax stipulates that the taxable value of a leasing transaction is the sum of all payments established in the lease.

Article 84(1) of the Law on value added tax provides that every taxable person who is registered or required under that law to be registered in the register of taxable persons for the purposes of value added tax held by the Valsts ieņēmumu dienests (State Revenue Service) and who carries out transactions which are taxable in the national territory must pay value added tax to the Exchequer, save where the law provides otherwise. A domestic taxable person is entitled not to register in the register of taxable persons for the purposes of value added tax held by the State Revenue Service if the total value of his or her taxable supplies of

goods and services did not exceed EUR 40 000 during the previous 12 months (*see Article 59(1) of the Law on value added tax)*.

7 Legal relationships based on compulsory shared ownership have existed under Latvian law for a considerable time (over 25 years). Regulation of these legal relationships was introduced as part of land reform and the privatisation of State and local authority property.

Land reform was a complex and lengthy process which affected the entire Latvian economy, and it was determined by historical circumstances […] [reference to national case-law]. One of the main objectives of land reform was to re-establish social justice; this had been undermined by the Soviet occupying power, which had illegally expropriated property belonging to the Latvian people without paying compensation […] [reference to national case-law]. Under the land reform legislation, which came into force in the early 1990s, after Latvia regained its independence, property rights to nationalised land were restored to their former owners or the owners' heirs. However, both during the Soviet occupation and following the restoration of independence, those lands, including multi-family residential buildings owned by the State and by local authorities, were built on.

Under the Law on the privatisation of State and local authority housing, passed by the Parliament on 21 June 1995, the multi-family residential buildings owned by the State and by local authorities were privatised, and property rights over the flats, non-residential premises and artists' workshops in those buildings were available for purchase, not only by the owners of the land but also by other people.

Consequently, in the course of land reform and the privatisation of State and local authority property, a situation arose in which the former owners or their heirs regained property rights over the land, while property rights over the flats and other assets located in the multi-family residential buildings owned by the State and by local authorities were acquired by other people.

In Article 14 of the likums 'Par atjaunotā Latvijas Republikas 1937. gada Civillikuma ievada, mantojuma tiesību un lietu tiesību daļas spēkā stāšanās laiku un piemērošanas kārtību' (Law on the entry into force and implementation arrangements for the introductory part of the revised Civil Code of the Republic of Latvia of 1937 and the parts governing inheritance law and rights *in rem*) of 7 July 1992, the legislature provided for an exception to the principle of the unitary nature of land and buildings established in Article 968 of the Civil Code, according to which a building that is closely linked to the plot of land on which it is constructed is deemed to be part of that land. The introduction of the exception was linked to land reform and privatisation of State and local authority property, and was necessary in order to regulate the legal relationships between the owners of the land and the owners of the buildings.

In order for a building owner to be able to exercise his or her property rights over the privatised property, that person needed to have use of the land required for the building. However, the legislature also had to take into account the interests of the people who owned the land on which buildings belonging to others were situated. The legislature decided to regulate the legal relationships of compulsory shared ownership arising between the owners of the land and the buildings by means of the concept of compulsory leasing. Article 12(2^1) of the likums 'Par zemes reformu Latvijas Republikas pilsētās' (Law on land reform in the cities of the Republic of Latvia) and Article 54(1) of the Law on the privatisation of State and local authority housing provide that the owner of the plot of land must conclude a lease for the land with the owner of the building. The Augstākā tiesa (Supreme Court, Latvia) has concluded that, since the legal relationship of compulsory leasing between the parties arises by operation of law, its resemblance to a contractual relationship is only relative. In other words, where the relevant circumstances apply, namely that a building belonging to one person is situated on land that belongs to someone else, the relationship between the lessor and the lessee is established by operation of law rather than through a voluntary agreement. Neither the owner of the land nor the owner of the building can alter that situation, to which both of them must have regard […] [reference to national case-law]. This legal construct is therefore known as compulsory leasing.

When the legislature passed the Law on the privatisation of State and local authority housing on 21 June 1995, it placed limits on the rent payable for compulsory leases. Subsequently, the Law on land reform in the cities of the Republic of Latvia also set a maximum permitted amount for the rent payable for compulsory leases. The constitutionality of the amount of rent payable for compulsory leases has also been examined by the Constitutional Court on several occasions. During the period in respect of which the applicant sought rent payments, including value added tax, from the owners of the buildings for the compulsory lease of the land, the amount of rent payable for compulsory leases was set by legislation as follows: in 2016 and 2017, the amount was 6% of the cadastral value of the land per annum; from 1 January 2018 the rent for the compulsory lease of the land could not exceed 5% of the cadastral value of the land per annum, and from 1 January 2019 to 30 April 2019, 4% of the cadastral value of the land per annum. Thus, by contrast with relations governed by the free market, the legislature used legislation to restrict an owner's use of his or her property.

From 1 May 2019, Article 12(2^1) of the Law on land reform in the cities of the Republic of Latvia and Article 54 of the Law on the privatisation of State and local authority housing establish that the rent payable for the compulsory lease of land is to be determined in a written agreement between the parties. If the parties cannot reach agreement over the amount of the rent for the compulsory lease, it will be determined by a court pursuant to Article 2123 of the Civil Code.

III. European Union legislation

8 The third paragraph of Article 288 of the Treaty on the Functioning of European Union provides that:

‘A directive shall be binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods.’

9 With regard to the objectives of Directive 2006/112/EC, its preamble states that:

‘(4) The attainment of the objective of establishing an internal market presupposes the application in Member States of legislation on turnover taxes that does not distort conditions of competition or hinder the free movement of goods and services. It is therefore necessary to achieve such harmonisation of legislation on turnover taxes by means of a system of value added tax …, such as will eliminate, as far as possible, factors which may distort conditions of competition, whether at national or Community level.

(5) A [value added tax] system achieves the highest degree of simplicity and of neutrality when the tax is levied in as general a manner as possible and when its scope covers all stages of production and distribution, as well as the supply of services. It is therefore in the interests of the internal market and of Member States to adopt a common system which also applies to the retail trade.

[…]

(7) The common system of [value added tax] should, even if rates and exemptions are not fully harmonised, result in neutrality in competition, such that within the territory of each Member State similar goods and services bear the same tax burden, whatever the length of the production and distribution chain.

[…]

(35) A common list of exemptions should be drawn up so that the Communities’ own resources may be collected in a uniform manner in all the Member States.’

10 Article 1 of Directive 2006/112/EC establishes that the principle of the common system of value added tax entails the application to goods and services of a general tax on consumption exactly proportional to the price of the goods and services.

Article 2 of Directive 2006/112/EC provides that: ‘The following transactions shall be subject to [value added tax]:

[…]

(c) the supply of services for consideration within the territory of a Member State by a taxable person acting as such’.

Article 135 of Directive 2006/112/EC establishes exemptions from value added tax as follows:

‘1. Member States shall exempt the following transactions:

[…]

(l) the leasing or letting of immovable property.

2. The following shall be excluded from the exemption provided for in point (l) of paragraph 1:

(a) the provision of accommodation, as defined in the laws of the Member States, in the hotel sector or in sectors with a similar function, including the provision of accommodation in holiday camps or on sites developed for use as camping sites;

(b) the letting of premises and sites for the parking of vehicles;

(c) the letting of permanently installed equipment and machinery;

(d) the hire of safes.

Member States may apply further exclusions to the scope of the exemption referred to in point (l) of paragraph 1.’

IV. Reasons why the Constitutional Court has doubts over the interpretation of Directive 2006/112/EC

11 There is no judicial remedy against the decisions of the Constitutional Court and, therefore, if the interpretation of EU law is relevant to a decision, the Constitutional Court must examine whether the relevant provisions of legislation are sufficiently clear or, if they are not sufficiently clear, whether they have previously been clarified by the Court of Justice […] [reference to national case-law].

The Constitutional Court will therefore examine the grounds for a reference to the Court of Justice of the European Union for a preliminary ruling.

12 The Constitutional Court has ruled that, pursuant to Article 68 of the Constitution, EU law became an integral part of the Latvian legal order when Latvia joined the European Union. The third paragraph of Article 288 of the Treaty on the Functioning of the European Union establishes that a directive is binding, as to the result to be achieved, upon each Member State to which it is addressed, but leaves to the national authorities the choice of form and methods. When passing legislation to transpose the requirements of European Union directives into domestic law, the legislature must therefore have regard both to the general principles of law and other provisions of the Constitution and to the principles of EU law […] [reference to national case-law].

The Constitutional Court has held that making a person liable for tax always entails a restriction on the right to property recognised in Article 105 of the Constitution […] [reference to national case-law]. In assessing whether the restriction on fundamental rights imposed by the contested provision in the present case complies with the Constitution, the Constitutional Court must also verify whether the legislature complied with EU law when it passed the provision in question […] [reference to national case-law].

The contested provision establishes that, for the purposes of the Law on value added tax, the leasing of property is also deemed to be a provision of services. The concept of 'leasing of property' used in this provision includes the leasing of immovable property. In other words, the leasing of immovable property is also a service that is subject to value added tax. The same is true of the leasing of land under a compulsory leasing relationship […] [reference to national case-law]. The Law on value added tax, together with the contested provision, was introduced specifically to implement the requirements of Directive 2006/112/EC.

Consequently, when the Constitutional Court commences its examination of the substance of the case […], it must also assess whether the legislature observed the requirements of Directive 2006/112/EC when it passed the contested provision. In other words, whether, under that EU legislation, the legislature has the power to pass legislation which makes the leasing of land under a compulsory leasing arrangement subject to value added tax.

13 The Court of Justice of the European Union has declared that, pursuant to Article 135(1) of Directive 2006/112/EC, the leasing or letting of immovable property is exempt from value added tax. The Court of Justice of the European Union has defined the concept of 'the leasing or letting of immovable property' within the meaning of Article 135(1)(l) of Directive 2006/112/EC as the conferring by a landlord on a tenant, for an agreed period and in return for rent, of the right to occupy that property as if that person were the owner and to exclude any other person from enjoyment of such a right (*see the judgment of the Court of Justice of the European Union of 28 February 2019, Manuel, EU:C:2019:160, C-278/18, paragraph 18*).

The Court of Justice of the European Union has stated that the exemption provided for in Article 135(1)(l) of Directive 2006/112/EC is to be interpreted strictly, since it constitutes an exception to the general principle that value added tax is to be levied on all services supplied for consideration by a taxable person. As the Court of Justice of the European Union has clarified, that exemption from value added tax is due to the fact that the leasing or letting of immovable property, whilst being an economic activity, is normally a relatively passive activity, not generating any significant added value *(see the judgments of the Court of Justice of the European Union of 16 December 2010, C-270/09 MacDonald, EU:C:2010:780, paragraph 45, and of 2 July 2020, C-215/19 Veronsaajien, EU:C:2020:518, paragraphs 38 and 41*).

The Court of Justice of the European Union has also stated that the Member States enjoy a margin of discretion in defining transactions that are, nevertheless, to be subject to value added tax by derogation from the exemption for the leasing or letting of immovable property. It is consequently a matter for the Member States, when transposing Directive 2006/112/EC, to introduce those criteria which seem to them appropriate in order to draw the distinction between taxable transactions and those which are not, including the leasing or letting of immovable property. Article 135(2) of Directive 2006/112/EC gives Member States a broad discretionary power to exclude certain services, such as the leasing or letting of immovable property, from the exemption (*see the judgments of the Court of Justice of the European Union of 16 December 2010, MacDonald, C-270/09, EU:C:2010:780, paragraph 50, and of 28 February 2018, Imofloresmira, C-672/16, EU:C:2018:134, paragraphs 31 and 48*).

Thus, although Article 135(1)(l) of Directive 2006/112/EC provides that Member States are to exempt the leasing or letting of immovable property from value added tax, paragraph 2 of that article gives Member States the power to introduce legislation under which certain transactions involving the leasing and letting of immovable property are subject to value added tax. Article 135 of Directive 2006/112/EC could therefore be interpreted as meaning that a Member State is entitled to exercise its discretion in order to provide that the leasing of land under a compulsory lease is also subject to value added tax.

13.1. However, in the present case, account should be taken of the fact that the value added tax applies to a transaction whose resemblance to a contractual leasing relationship is only relative.

Article 135(2)(a) to (d) of Directive 2006/112/EC identifies the transactions involving the leasing and letting of immovable property on which a Member State is required to impose value added tax. The Court of Justice of the European has clarified that the common characteristic of these transactions is that they involve more active exploitation of immovable property, thus justifying the imposition of value added tax (see the judgment of the Court of Justice of the European Union of 4 October 2001, *Goed Wonen*, C-326/99, EU:C:2001:506, paragraph 53). Value added tax normally applies to activities of an industrial or commercial nature. These activities appear in Article 135(2)(a) to (d) of Directive 2006/112/EC as exceptions to the exemption provided for in Article 135(1)(l) of that directive. Thus, value added tax is charged on activities that involve the provision of a service rather than simply making property available to another person *(see the judgment of the Court of Justice of the European Union of 18 November 2004, Belgian State, C-284/03, EU:C:2004:730, paragraph 20*). Although it is an economic activity, a passive activity such as leasing or letting property is in principle exempt from the tax (*see the judgment of the Court of Justice of the European Union of 16 December 2010, MacDonald, C-270/09, EU:C:2010:780, paragraph 99*).

As was already noted in section 7 of this decision, the leasing of land in cases of compulsory leasing is a different type of leasing relationship which was created as a result of historical circumstances, when the land and the buildings on it came to be owned by different persons. Compulsory leasing was adopted as a legal solution in order to achieve an equitable balance between the various rights and legitimate interests of those persons. That legal relationship — compulsory leasing — arises by operation of law independently of the wishes of the owner of the land and the owner of the building. Consequently, in cases of compulsory leasing, the leasing of land is manifestly a passive activity, since the owner of the land allows the owner of the building to use the land solely by operation of law. A passive activity of this type does not generate any added value, and therefore could not be subject to value added tax.

It can therefore be seen from the case-law of the Court of Justice of the European Union that, in view of its manifestly passive nature, the leasing of land in cases of compulsory leasing could be deemed a transaction that falls within the exemption from value added tax provided for in respect of the leasing of immovable property by Article 135(1)(l) of Directive 2006/112/EC.

13.2. The Court of Justice of the European Union has also stressed that, while Member States have a wide discretion under Article 135(2) of Directive 2006/112/EC to exempt or to tax leasing or letting, when exercising their discretion, the Member States must uphold the aims and principles of Directive 2006/112/EC, in particular the principle of neutrality of value added tax (*see the judgment of the Court of Justice of the European Union of 12 January 2006, Turn, C-246/04, EU:C:2006:22, paragraph 24*).

The principle of neutrality of value added tax also includes the principle of non-distortion of competition. This principle precludes similar goods or services which are in competition with each other from being treated differently for the purposes of value added tax within the territory of a Member State. Similar goods and services must be subject to the same tax within the territory of each Member State (*see the judgments of the Court of Justice of the European Union of 3 May 2001, Commission v France, C-481/98, EU:C:2001:237, paragraph 22, and of 19 December 2019, Segler, C-715/18, EU:C:2019:1138, paragraph 36*).

The contested provision applies to all leasing of land, including the leasing of land in cases of compulsory shared property. In other words, if the owner of the plot of land is registered or required under the Law on value added tax to be registered in the register of taxable persons for the purposes of value added tax, then the leasing of that plot of land must be deemed to be a provision of a service that is subject to value added tax. While compulsory leasing is a different type of leasing relationship, these services could be considered similar from the lessee's perspective: in both cases the lessor makes the plot of land he or she owns available to the lessee, and the lessee pays the lessor rent. If the leasing of land in cases of compulsory leasing were not subject to value added tax, all other cases of the leasing of land would have to be exempt from value added tax. Otherwise, the

principle of non-distortion of competition could be infringed, since similar services would be subject to different systems of value added tax.

It could therefore be concluded that the principle of neutrality of value added tax precludes exempting the leasing of land in cases of compulsory leasing from value added tax where all other instances of the leasing of land are subject to value added tax.

14 Thus, in this case, the interpretation of Directive 2006/112/EC could lead to different conclusions:

(1) In exercising its discretion with regard to determining the leasing or letting transactions on which value added tax must nevertheless be paid, the legislature was entitled to introduce legislation to make the leasing of land in cases of compulsory leasing subject to value added tax.

(2) Having regard to the compulsory nature of the leasing relationship between the owner of the land and the owner of the building, and to the fact that this legal relationship arises by operation of law and that the leasing of land is, by its very nature, a manifestly passive activity, the leasing of land in cases of compulsory leasing must be exempt from value added tax.

(3) Under the principle of neutrality of value added tax, the legislature was not entitled to exempt the leasing of land from value added tax in cases of compulsory leasing where all other instances of the leasing of land are subject to value added tax.

Although the Court of Justice of the European Union has interpreted Article 135 of Directive 2006/112/EC on several occasions, including with regard to the leasing or letting of immovable property, it has not so far provided an interpretation of that article in respect of the leasing of land in cases of compulsory leasing. Moreover, as can be seen from the case-law of the Court of Justice of the European Union cited earlier in this decision, the precise interpretation and application of Article 135 of Directive 2006/112/EC in the present factual and legal circumstances is not so obvious as to leave no scope for any reasonable doubt as to whether the legislature could introduce legislation under which the leasing of land in cases of compulsory leasing is subject to value added tax.

The Constitutional Court therefore considers that in the present case […] there are grounds for a decision to refer the matter to the Court of Justice for a preliminary ruling.

Pursuant to […] Article 267 of the Treaty on the Functioning of the European Union, […] [reference to domestic rules of procedure] the Constitutional Court

issues the following decision:

1. To refer the following questions to the Court of Justice of the European Union for a preliminary ruling:

1.1. Must the exemption from value added tax for the leasing of immovable property provided for in Article 135(1)(l) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax be interpreted as meaning that that exemption applies to the leasing of land in the case of compulsory leasing?

1.2. If the answer to the first question is in the affirmative — that is to say that the leasing of land in the case of compulsory leasing is exempt from value added tax — then, where all other instances of the leasing of land are subject to value added tax, is such an exemption not contrary to one of the principles of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, namely the principle of neutrality of value added tax?

2. To stay proceedings until the Court of Justice of the European Union issues a decision.

3. To forward to the Court of Justice of the European Union copies of this decision, the appeal document […], the response from the Parliament and the additional observations made in the present case […].

There is no right of appeal against this decision.

[…] [signatures]