

C_2019148EN.01002701.xml

29.4.2019

EN

Official Journal of the European Union

C 148/27

Request for a preliminary ruling from the Vrhovno sodišče Republike Slovenije (Slovenia) lodged on 21 February 2019 — SCT, d.d., in bankruptcy v Republic of Slovenia

(Case C-146/19)

(2019/C 148/25)

Language of the case: Slovenian

Referring court

Vrhovno sodišče Republike Slovenije

Parties to the main proceedings

Appellant: SCT, d.d., in bankruptcy

Respondent: Republic of Slovenia

Questions referred

1.

Is Article 90(2) of the VAT Directive to be interpreted as permitting derogation from the right to reduce the taxable amount for VAT purposes even with respect to cases of definitive non-payment, where such definitive non-payment is a consequence of a failure on the part of the taxable person liable for the VAT to take proper steps, such as lodging a claim in bankruptcy proceedings commenced against his debtor, as in the present case?

2.

If such derogation from the right to reduce the taxable amount for VAT purposes is permissible, must there nevertheless be a right to reduce the taxable amount for VAT purposes on the ground of non-payment where the taxable person is able to demonstrate that, even if he had lodged a claim in the bankruptcy proceedings, it would not have been satisfied, or is able to demonstrate that there were reasonable grounds for not lodging a claim?

3.

Does Article 90(1) of the VAT Directive have direct effect even if the legislature of a Member State has exceeded the scope of the possibilities for derogation established by Article 90(2)?