

C\_2019363EN.01000601.xml  
28.10.2019

EN

Official Journal of the European Union

C 363/6

Request for a preliminary ruling from the Tribunal Superior de Justicia de Galicia (Spain) lodged on 8 July 2019 — CB v Tribunal Económico-Administrativo Regional de Galicia

(Case C-521/19)

(2019/C 363/11)

Language of the case: Spanish

Referring court

Tribunal Superior de Justicia de Galicia

Parties to the main proceedings

Applicant: CB

Defendant: Tribunal Económico-Administrativo Regional de Galicia

Questions referred

Must Articles 73 and 78 of the VAT Directive, (1) in the light of the principles of neutrality, prohibition of tax evasion and abuse of rights, and prohibition of the illegal distortion of competition, be interpreted as precluding national legislation and the case-law interpreting it, pursuant to which, where the tax authorities discover concealed transactions subject to value added tax for which no invoice was issued, the price agreed by the parties for those transactions must be regarded as already including value added tax?

Is it therefore possible, in cases of fraud in which the transaction was concealed from the tax authorities, to consider, as may be deduced from the judgments of the Court of Justice of the European Union of 28 July 2016 (Case C-332/15, *Astone* (2)), of 5 October 2016 (Case C-576/15, *Marinova* (3)) and of 7 March 2018 (C-159/17, *Dobre* (4)), that the amounts paid and received do not include value added tax in order to conduct the proper assessment and impose the appropriate penalty?

(1) Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1).

(2) Judgment of 28 July 2016, *Astone* (C-332/15, EU:C:2016:614).

(3) Judgment of 5 October 2016, *Marinova* (C-576/15, EU:C:2016:740).

(4) Judgment of 7 March 2018, Dobre (C-159/17, EU:C:2018:161).