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Request for a preliminary ruling from the Varhoven administrativen sad (Bulgaria) lodged on 11 May 2022 — ‘Consortium Remi Group’ AD v Direktor na Direktsia ‘Obzhalvane i danachno-osiguritelna praktika’ Varna pri Tsentralno upravlenie na Natsionalnata agentsia za prihodite

(Case C-314/22)

(2022/C 303/20)

Language of the case: Bulgarian

Referring court

Varhoven administrativen sad

Parties to the main proceedings

Appellant in cassation: ‘Consortium Remi Group’ AD

Respondent in cassation: Direktor na Direktsia ‘Obzhalvane i danachno-osiguritelna praktika’ Varna pri Tsentralno upravlenie na Natsionalnata agentsia za prihodite

Questions referred

1.

In the event of a derogation in accordance with Article 90(2) of the VAT Directive, (1) do the principle of neutrality and Article 90 of that directive allow a provision of national law such as the second sentence of Article 129(1) of the Danachno-osiguritelni protsesualni kodeks (Tax and Social Security Procedure Code), which provides for a limitation period for the submission of an application for a set-off or refund of the tax charged by the taxable entity in respect of the supply of goods or services in the event of total or partial non-payment by the recipient of the supply?

2.

Irrespective of the answer to the first question, in the circumstances of the main proceedings, is it a necessary condition for the recognition of the right to a reduction in the taxable amount under Article 90(1) of the VAT Directive that the taxable entity corrects the invoice which it has issued, as regards the VAT charged, on account of total or partial non-payment by the recipient of the price of the supply under the invoice, before submitting the application for a refund?

3.

Depending on the answers to the first two questions: How must Article 90(1) of the VAT Directive

be interpreted when determining the time at which the ground for a reduction of the taxable amount arises in the event of total or partial non-payment of the price where there is no national provision in place on account of a derogation from Article 90(1)?

4.

How must the reasoning in the judgments of 27 November 2017, *Enzo Di Maura* (C-246/16, EU:C:2017:887, paragraphs 21 to 27), (2) and of 3 July 2019, *UniCredit Leasing* (C-242/18, EU:C:2019:558, paragraphs 62 and 65) (3) be applied if Bulgarian law does not contain any specific conditions for the application of the derogation under Article 90(2) of the VAT Directive?

5.

Are the principle of neutrality and Article 90 of the VAT Directive consistent with a tax and insurance practice under which, in the event of non-payment, no correction of the tax charged is permitted until the recipient of the supplies or services — provided that the recipient is a taxable entity — has been notified of the cancellation of the tax, so that the deduction initially made by the recipient is corrected?

6.

Does the interpretation of Article 90(1) of the directive permit the assumption that a possible right to a reduction of the taxable amount in the event of total or partial non-payment gives rise to a right to a refund of the VAT paid by the supplier, plus interest for late payment, and from what point in time?

(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) OJ 2018 C 22, p. 9.

(3) OJ 2019 C 305, p. 18.