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Request for a preliminary ruling from the Fővárosi Törvényszék (Hungary) lodged on 4 August 2022 — MAX7 Design Kft. v Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága

(Case C-519/22)

(2022/C 432/09)

Language of the case: Hungarian

Referring court

Fővárosi Törvényszék

Parties to the main proceedings

Applicant: MAX7 Design Kft.

Defendant: Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága

Questions referred

1.

In the light of Article 273 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (1) and the principle of proportionality under Article 52(1) of the Charter of Fundamental Rights of the European Union, is legislation of a Member State under which a company's tax identification number or VAT identification number may be cancelled for failure to comply with the requirement to lodge a tax guarantee imposed on that company compatible with the freedom to conduct a business enshrined in Article 16 of the Charter, even in the case where the members of the company are not directly aware that the requirement to lodge that guarantee has been imposed on the company or that the reason why the requirement to lodge a tax guarantee was imposed on the company is that one of its executive officers is or was a member or executive of another legal person with an outstanding tax debt?

2.

In the light of principle of necessity under Article 273 of Directive [2006/112] and the principle of proportionality under Article 52(1) of the Charter, is legislation of a Member State under which a company's tax identification number or VAT identification number may be cancelled for failure to comply with the requirement to lodge a tax guarantee imposed on that company compatible with the freedom to conduct a business enshrined in Article 16 of the Charter and the right to an effective remedy under Article 47 of the Charter, even in the case where the minimum notice

period for properly convening a meeting of that company's decision-making body, in accordance with the general provisions of the legislation of that Member State, does not allow that body to dismiss the executive officer affected by the impediment giving rise to the requirement to lodge that guarantee, and thus to remove that impediment within a timeframe such as to cause the obligation to lodge the guarantee to be extinguished, thereby obviating the need to cancel the tax identification number, before the tax authority's decision imposing the requirement to lodge that guarantee becomes final?

3.

Is legislation of a Member State which provides in mandatory terms, and without leaving any discretion to law-enforcement bodies, that:

(a)

the removal by the company, as a taxable person, of the impediment giving rise to the imposition of the requirement to lodge a tax guarantee once the decision imposing that requirement has become final has no effect on the obligation to lodge a tax guarantee or, therefore, on the cancellability of the tax identification number, even if that impediment was removed after the decision imposing the requirement to lodge a guarantee became final but within the prescribed time limit for lodging that guarantee; and that,

(b)

if the tax guarantee has not been lodged, the company, as a taxable person, cannot remedy the legal consequences of the cancellation of its tax identification number once the prescribed time limit for lodging that guarantee has expired, even if it removed the impediment giving rise to the imposition of the requirement to lodge a guarantee after the decision imposing that requirement became final but within the prescribed time limit for lodging that guarantee,

compatible with the freedom to conduct a business enshrined in Article 16 of the Charter, subject to the necessary limitation thereof provided for in Article 273 of [...] Directive [2006/112], and proportionate in accordance with Article 52(1) of the Charter and with the right to effective judicial protection under Article 47 of the Charter?

(1) OJ 2006 L 347, p. 1.