

2. Is Article 15(1) and (6) of Directive 2008/115 to be interpreted, in a situation such as that pertaining in the main proceedings, as meaning that the autonomous reason for extending detention provided for under national law, namely that ‘the person in question (...) [has] no identity documents’, is permissible from the point of view of EU law as subsumable under both cases in Article 15(6) of the directive where, under the national law of the Member State, due to the said circumstances it can be assumed that there is reason to believe that the person in question will attempt to circumvent implementation of the removal decision, which in turn presents a risk of absconding within the meaning of the law of that Member State?
3. Is Article 15(1)(a) and (b) and Article 15(6) of Directive 2008/115, in conjunction with recitals 2 and 13 in the preamble to the directive with regard to respect for the fundamental rights and dignity of third-country nationals and the application of the principle of proportionality, to be interpreted in a situation such as that pertaining in the main proceedings as permitting the conclusion that there is a reasonable risk of absconding due to the fact that the person in question has no identity documents, has crossed the state boundary illegally and has said that he will not return to his country of origin, even though he has previously completed a statement as to his voluntary return and provided correct details of his identity, when these circumstances fall within the concept of a ‘risk of absconding’ in the case of the addressee of a return decision within the meaning of the directive, which is defined under national law as reason to believe, based on the facts, that the person in question will attempt to circumvent implementation of the return decision?
4. Is Article 15(1)(a) and (b) and Article 15(4) and (6) of Directive 2008/115, in conjunction with recitals 2 and 13 in the preamble to the directive with regard to respect for the fundamental rights and dignity of third-country nationals and the application of the principle of proportionality, to be interpreted in a situation such as that pertaining in the main proceedings as meaning that:
  - a) the third-country national does not demonstrate cooperation in the preparation of implementation of the decision to return him to his country of origin if he states verbally to an embassy official of that country that he does not wish to return to his country of origin even though he has previously completed a statement as to his voluntary return and provided correct details of his identity and there are delays in obtaining the necessary documentation from a third country and there is a reasonable prospect of implementation of the return decision, if in these circumstances the embassy of that country does not issue the document necessary for the person in question to travel to his country of origin even though it has confirmed the identity of the person in question?
  - b) in the event of the release of a third-country national on account of the absence of an adequate prospect of implementation of a removal decision where that third-country national has no identity documents, has crossed the state border illegally and states that he does not wish to return to his country of origin, it is to be assumed that the Member State is under an obligation to issue a temporary document on the status of the person in question if the embassy of the country of origin does not in these circumstances issue the document required for the person in question to travel to his country of origin even though it has confirmed the identity of the person in question?

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<sup>(1)</sup> OJ L 348, p. 98.

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**Request for a preliminary ruling from the Administrativen sad — Varna (Bulgaria) lodged on 4 April 2014 — ‘Koela-N’ EOOD v Direktor na Direktsia ‘Obzhalvane i danachno-osiguritelna praktika’ Varna pri Tsentralno upravlenie na Natsionalnata agentsia za prihodite**

(Case C-159/14)

(2014/C 175/36)

*Language of the case: Bulgarian*

**Referring court**

Administrativen sad — Varna

**Parties to the main proceedings**

*Applicant:* 'Koela-N' EOOD

*Defendant:* Direktor na Direktsia 'Obzhalvane i danachno-osiguritelna praktika' Varna pri Tsentralno upravlenie na Natsionalnata agentsia za prihodite

**Questions referred**

1. Is Article 14(1) of Council Directive 2006/112/EC <sup>(1)</sup> of 28 November 2006 on the common system of value added tax to be interpreted as meaning that the ability to dispose of tangible property as owner also includes the right to instruct a carrier to deliver the goods to a third person other than the intended recipient stated on the invoice, and, on that basis, the receipt of the goods by that person on its own constitutes proof of previously effected supplies of goods?
2. Is Article 14(1) of Directive 2006/112 to be interpreted as meaning that the fact that the goods are not actually in the possession of the direct supplier — regardless of whether the buyer has received the goods — means that the conditions for the existence of a supply under the directive are not satisfied?
3. Do the fact that the upstream suppliers in the supply chain have not assisted the tax authorities and the non-loading of the goods constitute objective grounds from which it may be inferred that the taxable person knew, or ought to have known, that the transaction relied on as a basis for the right to deduct is connected with tax fraud?

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<sup>(1)</sup> OJ 2006 L 347, p. 1.

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**Request for a preliminary ruling from the Varas Cíveis de Lisboa (5<sup>a</sup> Vara Cível) (Portugal) lodged on 4 April 2014 — João Filipe Ferreira da Silva e Brito and Others v Portuguese State**

(Case C-160/14)

(2014/C 175/37)

*Language of the case: Portuguese*

**Referring court**

Varas Cíveis de Lisboa

**Parties to the main proceedings**

*Applicants:* João Filipe Ferreira da Silva e Brito and Others

*Defendant:* Portuguese State

**Questions referred**

1. Must Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses, <sup>(1)</sup> in particular Article 1(1) thereof, be interpreted as meaning that the concept of a 'transfer of a business' encompasses a situation in which an undertaking active on the charter flights market is wound up by decision of its majority shareholder, itself an undertaking active in the aviation sector and, in the context of the winding up, the parent company:
  - (i)- replaces the company being wound up under aircraft leasing contracts and ongoing charter flight contracts with tour operators;
  - (ii)- carries out activities previously pursued by the company being wound up;