

Parties to the main proceedings

Appellant: I.G.I. Srl

Respondents: Maria Grazia Cicenia, Mario Di Pierro, Salvatore de Vito, Antonio Raffaele

Questions referred

1. Can the creditors of the company being divided, whose credit interests antedate the division, who have not taken advantage of the remedy of lodging an objection under Article 2503 of the Civil Code (and therefore of the protection tool introduced in implementation of Article 12 of [Directive 82/891/EEC]),⁽¹⁾ use an action to set aside under Article 2901 of the Civil Code after the division has been implemented, in order to obtain a declaration that the division in question has no effect against them and, therefore, to take precedence in enforcement over the creditors of the recipient company or companies and to be placed in a preferential position before the shareholders of those companies?
2. Does the notion of nullity, provided for by Article 19 of the directive, refer only to actions affecting the validity of the instrument of division or also to actions which, despite not affecting its validity, result in its relative lack of effect or unenforceability?

⁽¹⁾ Sixth Council Directive 82/891/EEC of 17 December 1982 based on Article 54(3)(g) of the Treaty, concerning the division of public limited liability companies (OJ 1982 L 378, p. 47).

**Request for a preliminary ruling from the Tribunale Amministrativo Regionale per il Lazio (Italy)
lodged on 14 June 2018 — Tim SpA — Direzione e coordinamento Vivendi SA v Consip SpA,
Ministero dell'Economia e delle Finanze**

(Case C-395/18)

(2018/C 301/22)

Language of the case: Italian

Referring court

Tribunale Amministrativo Regionale per il Lazio

Parties to the main proceedings

Applicant: Tim SpA — Direzione e coordinamento Vivendi SA

Defendants: Consip SpA, Ministero dell'Economia e delle Finanze

Questions referred

1. Do Articles 57 and 71(6) of Directive 2014/24/EU⁽¹⁾ preclude national legislation, such as Article 80(5) of Legislative Decree No 50 of 2016, which requires the exclusion of a tendering economic operator where, during the tendering procedure, a ground is established for excluding a subcontractor forming part of the group of three subcontractors specified in the tender, rather than requiring the tenderer to replace the designated subcontractor?

2. In the alternative, if the Court of Justice considers that the option of excluding the tenderer is one of the options open to the Member State, does the principle of proportionality enshrined in Article 5 of the EU Treaty, referred to in recital 101 of Directive 2014/24/EU and established as a general principle of EU law by the Court of Justice, preclude national legislation, such as Article 80(5) of Legislative Decree No 50 of 2016, which provides that, where a ground for excluding a designated subcontractor is established during the tendering procedure, a tendering economic operator is to be excluded in all cases, including where there are other subcontractors that have not been excluded and satisfy the requirements for the provision of the services to be subcontracted, or where the tendering economic operator declares that it will not subcontract as it satisfies the requirements for the provision of the services on its own?

⁽¹⁾ Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ 2014 L 94, p. 65).

**Request for a preliminary ruling from the Hof van Cassatie (Belgium) lodged on 18 June 2018 —
Infohos v Belgische Staat**

(Case C-400/18)

(2018/C 301/23)

Language of the case: Dutch

Referring court

Hof van Cassatie

Parties to the main proceedings

Appellant: Infohos

Respondent: Belgische Staat

Question referred

Must Article 13.A(1)(f) of Directive 77/388/EEC ⁽¹⁾ of 17 May 1977, now Article 132(1)(f) of Directive 2006/112/EC ⁽²⁾ of 28 November 2006, be interpreted as permitting Member States to attach an exclusivity condition to the exemption provided for therein, whereby an independent group which also supplies services to non-members is also liable in full to VAT for the services supplied to its members?

⁽¹⁾ Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (OJ 1977 L 145, p. 1).

⁽²⁾ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1).

**Request for a preliminary ruling from the Consiglio di Stato (Italy) lodged on 15 June 2018 —
Tedeschi Srl, acting in its own behalf and as agent of a temporary association of undertakings,
Consorzio Stabile Istant Service, acting in its own behalf and as principal of a temporary association
of undertakings v C.M. Service Srl, Università degli Studi di Roma La Sapienza**

(Case C-402/18)

(2018/C 301/24)

Language of the case: Italian

Referring court

Consiglio di Stato