62016CJ0038
JUDGMENT OF THE COURT (Fourth Chamber)

14 June 2017 (1)

?Reference for a preliminary ruling — Value added tax (VAT) — Repayment of overpaid VAT — Right to deduct VAT — Procedures — Principles of equal treatment and fiscal neutrality — Principle of effectiveness — National legislation introducing a limitation period’

In Case C?38/16,

REQUEST for a preliminary ruling under Article 267 TFEU from the First-tier Tribunal (Tax Chamber, United Kingdom), made by decision of 20 January 2016, received at the Court on 25 January 2016, in the proceedings

Compass Contract Services Limited

v

Commissioners for Her Majesty’s Revenue and Customs,

THE COURT (Fourth Chamber),

composed of T. von Danwitz, President of the Chamber, E. Juhász, C. Vajda, K. Jürimäe and C. Lycourgos (Rapporteur), Judges,

Advocate General: M. Campos Sánchez-Bordona,

Registrar: L. Hewlett, Principal Administrator,

having regard to the written procedure and further to the hearing on 8 December 2016,

after considering the observations submitted on behalf of:

—

Compass Contract Services Limited, by D. Scorey QC, and by O. Jarratt and D. Stephens, advisors,

—

the United Kingdom Government, by D. Robertson and M. Holt, acting as Agents, and by A. Macnab, Barrister,

—

the European Commission, by M. Owsiany-Hornung and M. Wasmeier, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 2 March 2017,

gives the following

Judgment

1

This request for a preliminary ruling concerns the interpretation of the EU law principles of equal treatment, fiscal neutrality and effectiveness.

2

The request has been made in proceedings between Compass Contract Services Limited ('Compass') and the Commissioners for Her Majesty's Revenue & Customs ('the Commissioners') concerning the latter's refusal to repay value added tax ('VAT') overpaid by Compass.

Legal context

EU law

3

Under the heading 'Origin and scope of the right to deduct', Article 17 of 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) ('the Sixth Directive') provides as follows:

'1. The right to deduct shall arise at the time the deductible tax becomes chargeable.

2. In so far as the goods and services are used for the purposes of his taxable transactions, the taxable person shall be entitled to deduct from the tax which he is liable to pay:

(a)

[VAT] due or paid in respect of goods or services supplied or to be supplied to him by another taxable person;

(b)

[VAT] due or paid in respect of imported goods;

(c)

[VAT] due under Articles 5(7)(a) and 6(3).

...'

4

Article 18 of the Sixth Directive, entitled 'Rules governing the exercise of the right to deduct', provides:

'1. To exercise his right to deduct, the taxable person must:

(a)

in respect of deductions under Article 17(2)(a), hold an invoice drawn up in accordance with Article 22(3);

(b)

in respect of deductions under Article 17(2)(b), hold an import document, specifying him as consignee or importer, and stating or permitting calculation of the amount of tax due;

(c)

in respect of deductions under Article 17(2)(c), comply with the formalities established by each Member State;

(d)

when he is required to pay the tax as a customer or purchaser where Article 21(1) applies, comply with the formalities laid down by each Member State.

2. The taxable person shall effect the deduction by subtracting from the total amount of value added tax due for a given tax period the total amount of the tax in respect of which, during the same period, the right to deduct has arisen and can be exercised under the provisions of paragraph 1.

...

3. Member States shall determine the conditions and procedures whereby a taxable person may be authorised to make a deduction which he has not made in accordance with the provisions of paragraphs 1 and 2.

4. Where for a given tax period the amount of authorised deductions exceeds the amount of tax due, the Member States may either make a refund or carry the excess forward to the following period according to conditions which they shall determine.

...'

United Kingdom law

5

Section 25 of the Value Added Tax Act 1994, in its version applicable at the time of the facts at issue in the main proceedings ('the 1994 Act'), provides:

'...

2. Subject to the provisions of this section, [a taxable person] is entitled at the end of each prescribed accounting period to credit for so much of his input tax as is allowable under section 26, and then to deduct that amount from any output tax that is due from him.

...

6. A deduction under subsection (2) above and payment of a VAT credit shall not be made or paid except on a claim made in such manner and at such time as may be determined by or under regulations; and, in the case of a person who has made no taxable supplies in the period concerned or any previous period, payment of a VAT credit shall be made subject to such

conditions (if any) as the Commissioners think fit to impose, including conditions as to repayment in specified circumstances.'

6

Section 80 of the 1994 Act states:

'Credit for, or repayment of, overstated or overpaid VAT

...

4. The Commissioners shall not be liable on a claim under this section,

(a)

to credit an amount to a person under subsection (1) or (1A) above, or

(b)

to repay an amount to a person under subsection (IB) above,

if the claim is made more than 3 years after the relevant date.'

7

Regulation 29 of the Value Added Tax Regulations 1995, in its version applicable at the time of the facts at issue in the main proceedings, implemented section 25 of the 1994 Act. Regulations (29)(1) and (1A) state as follows:

'1. Subject to paragraph (1A): ... below, and save as the Commissioners may otherwise allow or direct either generally or specially, a person claiming deduction of input tax under section 25(2) of the Act shall do so on a return made by him for the prescribed accounting period in which the VAT became chargeable.

1A. The Commissioners shall not allow or direct a person to make any claim for deduction of input tax in terms such that the deduction would fall to be claimed more than 3 years after the date by which the return for the prescribed accounting period in which the VAT became chargeable is required to be made.'

8

Section 121 of the Finance Act 2008 ('the 2008 Act') provides:

'Old VAT claims: extended time limits

(1)

The requirement in section 80(4) of the [1994 Act] that a claim under that section be made within 3 years of the relevant date does not apply to a claim in respect of an amount brought into account, or paid, for a prescribed accounting period ending before 4 December 1996 if the claim is made before 1 April 2009.

(2)

The requirement in section 25(6) of the [1994 Act] that a claim for deduction of input tax be made

at such time as may be determined by or under regulations does not apply to a claim for deduction of input tax that became chargeable, and in respect of which the claimant held the required evidence, in a prescribed accounting period ending before 1 May 1997 if the claim is made before 1 April 2009.

...

(4)

This section is treated as having come into force on 19 March 2008.’

The dispute in the main proceedings and the questions referred for a preliminary ruling

9

Compass, which is a company providing, inter alia, catering services, seeks repayment of sums that it overpaid in respect of VAT relating, in particular, to two accounting periods (quarters) ending in the months of January and April 1997.

10

In 1996, the United Kingdom of Great Britain and Northern Ireland announced its intention to amend the national legislation concerning repayment of overpaid output VAT and to reduce, from six years to three years, the limitation period for claims in respect of such repayments. That amendment entered into force on 4 December 1996. By judgment of 11 July 2002, Marks & Spencer (C?62/00, EU:C:2002:435), the Court held that that national legislation was incompatible with the principles of effectiveness and of the protection of legitimate expectations given that it retroactively curtailed, without any transitional period, the period within which the repayment of the overpaid VAT could be claimed.

11

The Court of Appeal (England & Wales) (Civil Division) (United Kingdom) applied that case-law in respect of claims for deduction of input VAT, the United Kingdom having also reduced, from 1 May 1997, the limitation period for such claims from six years to three years. In Michael Fleming (t/a Bodycraft) v Commissioners ((2006) EWCA Civ 70) that court held that, given that that reduction in the limitation period had been made without a transitional period, those persons whose right to deduct input tax arose before 1 May 1997 should be allowed to claim and the application of that new period should, in respect of those persons, be disapplied. That judgment of the Court of Appeal (England & Wales) (Civil Division) was confirmed on 23 January 2008 by the House of Lords in its judgment in Fleming and Condé Nast v Commissioners ((2008) UKHL 2).

12

Following that judgment of the House of Lords, the Commissioners published a bulletin (Business Brief 07/08 (2008) STI 311 (Issue 8)) in which they declared that VAT claims brought before the expiry of the new three-year period may relate to ‘output tax overpaid or overdeclared in accounting periods ending before 4 December 1996’ and ‘input tax in respect of which the entitlement to deduct arose in accounting periods ending before 1 May 1997’. Those two dates, therefore, corresponded to the entry into force of the new reduced limitation period of three years for submitting, on the one hand, claims for repayment of overpaid VAT, namely 4 December 1996 and, on the other hand, claims for the deduction of input VAT, namely 1 May 1997. Those VAT claims are now known as ‘Fleming claims’. Section 121 of the 2008 Act codified those limitation periods for those two types of claim.

13

It is apparent from the order for reference that in the month of June 2006 the Court of Appeal (England & Wales) (Civil Division) (United Kingdom) held that certain supplies by Compass of cold food catering, on which Compass had been charging and accounting for VAT, were not liable to VAT. That court held that those supplies were zero-rated under national law, pursuant to the derogation permitted by Article 28(2) of the Sixth Directive.

14

The Commissioners therefore accepted that Compass had overpaid VAT. In January 2008, Compass submitted claims for the recovery of overpaid output tax for the periods from 1 April 1973 to 2 February 2002.

15

The Commissioners repaid the VAT overpaid by Compass for the periods from 1 April 1973 to 31 October 1996. They refused, on the other hand, claims for repayment of VAT overpaid by that company for the remaining periods on the grounds that those claims were time-barred. They took the view that the three-year limitation period started to run on 4 December 1996 for the accounting periods ending from that date and that it had expired on the date on which Compass’s claims were filed. As the referring court has stated, the periods at issue in the case in the main proceedings are, therefore, limited to the two accounting periods ending after 4 December 1996 and before 1 May 1997, Compass not disputing that the limitation period had validly run after the latter date.

16

Compass then brought an action before the First-tier Tribunal (Tax Chamber) (United Kingdom) against the refusal of the Commissioners to repay Compass the VAT overpaid in respect of those two accounting periods. In support of that action, Compass maintains that the difference in treatment between a claim for repayment of output tax, such as the claim it brought, and a claim for the deduction of input tax is contrary to the principle of equal treatment. According to Compass, there is no reason why, in respect of those same accounting periods, a taxable person may introduce a claim for the deduction of VAT but not a claim for repayment of overpaid VAT. The temporal discrepancy under the UK legislation as to the date from which the limitation period of three years comes into force, which thus establishes a difference in treatment between those two types of claim and which arose through happenstance from the history of the litigation giving rise to the enactment of the limitation period concerned, is not objectively justified.

17

In those circumstances, the First-Tier Tribunal (Tax Chamber) decided to stay the proceedings and to refer the following questions to the Court for a preliminary ruling:

‘(1)

Does the UK’s different treatment of output tax Fleming claims (which could be made for periods ending before 4 December 1996) and input tax Fleming claims (which could be made for periods ending before 1 May 1997 — i.e. later than output tax Fleming claims) result in:

(a)

a breach of the EU law principle of equal treatment; and/or

(b)

a breach of the EU law principle of fiscal neutrality; and/or

(c)

a breach of the EU law principle of effectiveness; and/or

(d)

a breach of any other relevant EU law principle?

(2)

If the answer to any of Question 1(a) to 1(d) is affirmative, how should output tax Fleming claims relating to the period from 4 December 1996 to 30 April 1997 be treated?’

Consideration of the questions referred

The first question

18

By its first question, the referring court asks, in essence, whether the principles of fiscal neutrality, equal treatment and effectiveness preclude national legislation, such as that at issue in the main proceedings, which, in the context of a reduction in the limitation period, lays down different transitional periods, on the one hand, for claims for repayment of overpaid VAT and, on the other hand, for claims for deduction of input VAT, so that claims relating to two three-month accounting periods are subject to different limitation periods depending on whether they concern the repayment of overpaid VAT or the deduction of input VAT.

19

As is clear from the decision to refer, in accordance with section 80(4) and section 25(6) of the 1994 Act, itself implemented by Regulation 29(1A) of the Value Added Tax Regulations 1995, in its version applicable at the time of the facts at issue in the main proceedings, to which section 121 of the 2008 Act refers, claims for repayment of overpaid VAT and claims for the deduction of input VAT are subject to the same reduced limitation period of three years. By contrast, the date from which that period becomes applicable, as results from the transitional periods laid down in section 121 of the 2008 Act which codified the Commissioners’ practice — periods intended to comply with EU law as explained in paragraphs 10 to 12 above — is different for those two types of claims. On

the one hand, under section 121(1) of the 2008 Act that three-year limitation period does not apply to a claim for repayment of overpaid VAT for an amount brought into account, or paid, for a prescribed accounting period ending before 4 December 1996 if the claim is made before 1 April 2009. On the other hand, section 121(2) provides that the limitation period does not apply to a claim for deduction of input VAT that became chargeable in an accounting period ending before 1 May 1997 if the claim is made before 1 April 2009.

20

It is clear from the order for reference that the claim for repayment of overpaid VAT made by Compass was rejected on the basis of section 121(1) of the 2008 Act and the three-year limitation period applicable to prescribed accounting periods ending after 4 December 1996 which that section lays down. The situation would have been different if a company had made a claim for deduction of input VAT, the three-year limitation period relating to that type of claim being applicable only to accounting periods ending after 1 May 1997.

21

In the first place, it should be recalled that, according to settled case-law, the principle of fiscal neutrality precludes in particular treating similar goods or supplies of services, which are thus in competition with each other, differently for VAT purposes (judgments of 3 May 2001, Commission v France, C?481/98, EU:C:2001:237, paragraph 22, and of 10 November 2011, The Rank Group, C?259/10 and C?260/10, EU:C:2011:719, paragraph 32).

22

Nothing in the file submitted to the Court by the referring court permits the inference that for VAT purposes the services supplied by Compass were treated differently to similar supplies by a competing trader.

23

As the Advocate General stated in point 54 of his Opinion, the Commissioners applied the provisions governing the time limits to all applicants, including Compass, depending on the nature of their claims, according to whether they were for repayment of overpaid VAT or for deduction of input VAT.

24

In the second place, regarding the principle of equal treatment, the Court has held that, although infringement of the principle of fiscal neutrality — which is the reflection, in matters relating to VAT, of the principle of equal treatment — may be envisaged only as between competing traders, infringement of the general principle of equal treatment may be established, in matters relating to tax, by other kinds of discrimination which affect traders who are not necessarily in competition with each other but who are nevertheless in a similar situation in other respects (see, to that effect, judgment of 10 April 2008, Marks & Spencer, C?309/06, EU:C:2008:211, paragraph 49).

25

According to settled case-law, a breach of the principle of equal treatment as a result of different treatment presupposes that the situations concerned are comparable, having regard to all the elements which characterise them (judgment of 16 December 2008, Arcelor Atlantique et Lorraine and Others, C?127/07, EU:C:2008:728, paragraph 25). The elements which characterise various situations, and hence their comparability, must in particular be determined and assessed in the

light of the subject matter of the provisions in question and of the aim they pursue, whilst account must be taken for that purpose of the principles and objectives of the field to which the measure at issue relates (see, to that effect, judgment of 16 December 2008, Arcelor Atlantique et Lorraine and Others, C?127/07, EU:C:2008:728, paragraph 26, and the judgment of 7 March 2017, RPO, C?390/15, EU:C:2017:174, paragraph 42).

26

It is therefore necessary to examine whether, in the light of the limitation periods laid down in section 121 of the 2008 Act, the situation of a trader, such as Compass, who seeks repayment of VAT overpaid to the tax authorities is comparable to that of another trader who claims deduction of input VAT from the same authorities.

27

In that regard, Compass submits that the situation of a trader who claims repayment of overpaid VAT is comparable to that of a trader who claims deduction of input VAT, on the ground, inter alia, as is said to be apparent from the judgment of 10 April 2008, Marks & Spencer (C?309/06, EU:C:2008:211), that those two traders are holders of VAT credits against the tax authorities. On the other hand, the United Kingdom and the European Commission argue that those situations are not comparable given the different legal nature of the rights on which those two types of claims are based.

28

In order to determine whether those situations are comparable, it is necessary, first, to establish the elements which characterise a claim for repayment of overpaid VAT, such as that of Compass. In that regard, it should be recalled that the Sixth Directive does not contain any provisions relating to the adjustment, by the issuer of the invoice, of VAT which has been wrongly invoiced. In those circumstances, it is in principle for the Member States to lay down the conditions under which wrongly invoiced VAT may be adjusted (see, to that effect, judgment of 19 September 2000, Schmeink & Cofreth and Strobel, C?454/98, EU:C:2000:469, paragraphs 48 and 49, and judgment of 11 April 2013, Rusedespred, C?138/12, EU:C:2013:233, paragraph 25).

29

It is settled case-law of the Court that the right to a refund of charges levied in a Member State in breach of rules of EU law is the consequence and complement of the rights conferred on individuals by provisions of EU law as interpreted by the Court (see, inter alia, judgments of 9 November 1983, San Giorgio, 199/82, EU:C:1983:318, paragraph 12; of 8 March 2001, Metallgesellschaft and Others, C?397/98 and C?410/98, EU:C:2001:134, paragraph 84, and of 19 July 2012, Littlewoods Retail and Others, C?591/10, EU:C:2012:478, paragraph 24). The Member State is therefore required, in principle, to repay charges levied in breach of EU law (see, inter alia, judgments of 14 January 1997, Comateb and Others, C?192/95 to C?218/95, EU:C:1997:12, paragraph 20, and of 19 July 2012, Littlewoods Retail and Others, C?591/10, EU:C:2012:478, paragraph 24).

30

The claim for repayment of overpaid VAT concerns the right to recovery of sums paid but not due which, according to settled case-law, helps to offset the consequences of the tax’s incompatibility with EU law by neutralising the economic burden which that tax has wrongly imposed on the trader who, in fact, has ultimately borne it (see, to that effect, judgment of 20 October 2011, Danfoss and

Sauer-Danfoss, C?94/10, EU:C:2011:674, paragraph 23).

31

Therefore, it should be noted that the element which characterises such a right to repayment, and from which it originates, is an overpayment to the tax authorities by a taxable person of an amount of VAT in breach of EU law. It is specifically the fact that the VAT is not due which underlies the right to recover and ensures, in accordance with conditions laid down in the national law of each Member State, having regard to the principles of equivalence and effectiveness, that the economic burden arising from that payment is neutralised in respect of that taxable person.

32

Secondly, as regards the elements which characterise a claim for deduction of input tax, it should be observed that, whereas the right to repayment of overpaid VAT derives from general principles of EU law, as the Advocate General noted in paragraph 59 of his Opinion and as is apparent from paragraphs 29 and 30 above, the right to deduct input VAT is laid down in Article 17 et seq. of the Sixth Directive.

33

The Court has already held that the right of taxable persons to deduct VAT due or paid on goods purchased and services received as inputs from the VAT which they are liable to pay is a fundamental principle of the common system of VAT established by EU law. The right to deduct VAT is, therefore, an integral part of the VAT scheme and in principle may not be limited (see, inter alia, judgments of 6 December 2012, Bonik, C?285/11, EU:C:2012:774, paragraphs 25 and 26, and the judgment of 22 June 2016, Gemeente Woerden, C?267/15, EU:C:2016:466, paragraphs 30 and 31).

34

The deduction rules thus established are intended to free the taxable person completely of the burden of the VAT accruing or paid in all its economic activities. The common system of VAT therefore ensures that all economic activities, whatever their purpose or results, provided that they are, in principle, themselves subject to VAT, are taxed in a neutral way (judgments of 14 February 1985, Rompelman, 268/83, EU:C:1985:74, paragraph 19; of 6 July 2006, Kittel and Recolta Recycling, C?439/04 and C?440/04, EU:C:2006:446, paragraph 48; and of 26 April 2017, Farkas, C?564/15, EU:C:2017:302, paragraph 43).

35

Thus, the Court has already held that the right to deduct can be exercised only in respect of taxes actually due and cannot be extended to VAT invoiced though not due and paid to the tax authorities (see, to that effect, judgment of 15 March 2007, Reemtsma Cigarettenfabriken, C?35/05, EU:C:2007:167, paragraphs 23 and 27, and of 26 April 2017, Farkas, C?564/15, EU:C:2017:302, paragraph 47).

36

Therefore, unlike the element characterising the right to repayment of overpaid VAT, the right to deduct VAT, which is a right inherent in the VAT scheme established by the common system of VAT, is based on the existence of a tax that is due.

37

It follows from the foregoing that, whilst the right to repayment of overpaid VAT is intended to remedy a situation which stems from an infringement of EU law by permitting the beneficiary of that right to neutralise an economic burden which is wrongly imposed, the right to deduct input VAT stems from the actual application of the common system of VAT, so that the VAT payable or paid is not borne by the taxable person in his economic activities that are subject to VAT, thus ensuring neutrality of taxation of those activities.

38

As the Advocate General observed in point 60 of his Opinion, such a difference in the nature of the rights at issue and the objectives pursued justifies the existence of legal rules specific to each of those two rights, inter alia, as regards their content and the conditions for their exercise, such as the limitation period for actions to enforce those rights and, specifically, the date from which such a period applies.

39

Therefore, the fact that the view may be taken, as Compass states in its written observations, that the holder of the right to repayment of overpaid VAT and the holder of the right to deduct of input VAT are both holders of a VAT credit against the tax authorities cannot in itself lead to the conclusion that their situation is comparable for the purpose of the application of the principle of equal treatment in taxation matters, given the fundamental differences as regards both the objectives pursued by the legal rules governing those rights and the elements which characterise them. Having regard to those differences, the national tax authorities are not required to treat the holders of those rights in the same way in respect of the limitation periods for claims concerning those rights, nor, in particular, to provide an identical date for the entry into force or application of a new limitation period.

40

Furthermore, concerning the judgment of 10 April 2008, Marks & Spencer (C?309/06, EU:C:2008:211), cited by Compass in its written observations, as referred to in paragraph 27 above, it is indeed true that the Court stated, in paragraph 50 of that judgment, that the general principle of equal treatment applies in a situation where traders are all holders of VAT credits, seek to obtain repayment from the tax authorities and find that their claims for a refund are treated differently. However, the Court’s interpretation of EU law in that judgment concerned a situation in which the traders all sought to obtain repayment of VAT which they had overpaid to the tax authorities and saw their claims for repayment treated differently. Thus, having regard to the differences between the facts at issue in that judgment and those at issue in the main proceedings, the Court’s interpretation in that judgment cannot call into question the interpretation that the right to repayment of overpaid VAT and the right to deduction of input VAT are different in nature.

41

It follows from the foregoing that under the transitional periods concerning limitation laid down in section 121 of the 2008 Act, established, as is apparent from paragraph 19 above, to ensure that the right to repayment is effective and to comply with EU law, the situation of a trader, such as Compass, who seeks repayment of VAT which it has overpaid to the national tax authorities is not comparable to that of another trader who claims deduction of input VAT from those same

authorities. The principle of equal treatment, therefore, does not preclude those two situations from being treated differently as regards the time limits resulting from those transitional periods.

42

Thirdly, as regards consideration of the first question in the light of the principle of effectiveness, it should be recalled that the Court has stated that it is compatible with EU law to lay down reasonable time limits for bringing proceedings in the interests of legal certainty which protects both the taxpayer and the authorities concerned. Such periods are not by their nature liable to make it virtually impossible or excessively difficult to exercise the rights conferred by EU law, even if the expiry of those periods necessarily entails the dismissal, in whole or in part, of the action brought (see, to that effect, judgments of 17 July 1997, Haahr Petroleum, C?90/94, EU:C:1997:368, paragraph 48, and of 8 September 2011, Q-Beef and Bosschaert, C?89/10 and C?96/10, EU:C:2011:555, paragraph 36). In that context, a national limitation period of three years appears to be reasonable (see, to that effect, judgments of 11 July 2002, Marks & Spencer, C?62/00, EU:C:2002:435, paragraph 35, and of 15 April 2010, Barth, C?542/08, EU:C:2010:193, paragraph 28.)

43

Furthermore, the Court has already held, in paragraph 38 of its judgment of 11 July 2002, Marks & Spencer (C?62/00, EU:C:2002:435), that national legislation reducing the period within which repayment of sums collected in breach of EU law may be sought is not incompatible with the principle of effectiveness, provided not only that the new limitation period is reasonable but also that the new legislation includes transitional arrangements allowing an adequate period after the enactment of the legislation for lodging the claims for repayment which persons were entitled to submit under the original legislation.

44

It must be held, as the United Kingdom states in its written observations, that a provision, such as section 121 of the 2008 Act, which lays down transitional periods for the application of reduced limitation periods for claims for repayment of overpaid VAT and claims for the deduction of input VAT, meets the conditions set out by the Court in the judgment of 11 July 2002, Marks & Spencer (C?62/00, EU:C:2002:435).

45

The fact that the transitional periods concerning the date from which new reduced limitation periods become applicable are different depending on whether they concern one or other of the periods which apply to those two types of claim can have no effect whatsoever on such a conclusion, in so far as, when implemented, those periods do not render impossible or excessively difficult the repayment of overpaid VAT and the deduction of input VAT. Since, in the situation at issue in the main proceedings, the reduction of the limitation period for the two types of claim at issue applies from 4 December 1996 for the first type and from 1 May 1997 for the second type, as was observed in paragraph 12 above, such a reduction, which did not have retrospective effect because of the transitional periods, allowed litigants, such as Compass, to have an actual period of three years to submit their claims for periods after 4 December 1996 for the first type and 1 May 1997 for the second type, respectively. Therefore, it must be held that the periods at issue in the main proceedings are reasonable, with the result that the principle of effectiveness does not preclude such legislation.

46

It follows from the foregoing considerations that the answer to the first question is that the principles of fiscal neutrality, equal treatment and effectiveness do not preclude national legislation, such as that at issue in the main proceedings, which, in the context of the reduction of the limitation period, on the one hand, for claims for overpaid VAT and, on the other hand, for claims for deduction of input VAT, provides different transitional periods, with the result that claims relating to two accounting periods of three months are subject to different limitation periods depending on whether they concern the repayment of overpaid VAT or the deduction of input VAT.

The second question

47

In the light of the answer to the first question, there is no need to answer the second question.

Costs

48

Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Fourth Chamber) hereby rules:

The principles of fiscal neutrality, equal treatment and effectiveness do not preclude national legislation, such as that at issue in the main proceedings, which, in the context of the reduction of the limitation period, on the one hand, for claims for overpaid value added tax and, on the other hand, for claims for deduction of input value added tax, provides different transitional periods, with the result that claims relating to two accounting periods of three months are subject to different limitation periods depending on whether they concern the repayment of overpaid value added tax or the deduction of input value added tax.

von Danwitz

Juhász

Vajda

Jürimäe

Lycourgos

Delivered in open court in Luxembourg on 14 June 2017.

A. Calot Escobar

Registrar

T. von Danwitz

President of the Fourth Chamber

(1) Language of the case: English.