

Question referred

Must Article 18(c) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ⁽¹⁾ be interpreted as meaning that, on expiry of the adjustment period referred to in Article 187 of the directive, a taxable person's fixed assets upon the acquisition of which he deducted VAT, should not be subject to tax and included in the winding-up inventory at the time he ceases his activity, if the period laid down in law for adjusting the input tax on the acquisition thereof, which arises from the estimated period for using those assets in the taxable person's economic activity, has passed, or as meaning that the fixed assets are subject to tax at the time the taxable person ceases his economic activity, regardless of the adjustment period?

⁽¹⁾ OJ 2006 L 347, p. 1.

Request for a preliminary ruling from the Sąd Najwyższy (Poland) lodged on 21 May 2015 — Prezes Urzędu Komunikacji Elektronicznej, Petrotel sp. z o.o. w Płocku v Polkomtel sp. z o.o.

(Case C-231/15)

(2015/C 294/24)

Language of the case: Polish

Referring court

Sąd Najwyższy

Parties to the main proceedings

Appellants: Prezes Urzędu Komunikacji Elektronicznej, Petrotel sp. z o.o. w Płocku

Respondent: Polkomtel sp. z o.o.

Question referred

Must the first and third sentences of Article 4(1) of Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) ⁽¹⁾ be interpreted as meaning that — in the event that a network provider contests a decision of the national regulatory authority setting call termination rates in the network of that undertaking (MTR decision), and that undertaking then contests a subsequent decision of the national regulatory authority amending a contract between the addressee of the MTR decision and another undertaking so that the rates paid by that other undertaking for call termination in the network of the addressee of the MTR decision correspond to the rates set in the MTR decision (implementing decision) — the national court, having found that the MTR decision has been annulled, cannot annul the implementing decision in view of the fourth sentence of Article 4(1) of Directive 2002/21 and the interests which the undertaking benefitting from the implementing decision derives from the principle of the protection of legitimate expectations or of legal certainty, or must the first and third sentences of Article 4(1) of Directive 2002/21, in conjunction with Article 47 of the Charter of Fundamental Rights, be interpreted as meaning that the national court may annul the implementing decision of the national regulatory authority and consequently remove the obligations laid down therein for the period preceding the judgment if it finds that that is necessary in order to provide effective protection for the rights of the undertaking appealing against the national regulatory authority's decision that enforces the obligations laid down in the MTR decision which was subsequently annulled?

⁽¹⁾ OJ 2002 L 108, p. 33.
