

**Judgment of the Court (Seventh Chamber) of 8 September 2022 (request for a preliminary ruling from the Bundesfinanzhof — Germany) — Finanzamt R v W-GmbH**

(Case C-98/21) <sup>(1)</sup>

*(Reference for a preliminary ruling — Value added tax (VAT) — Directive 2006/112/EC — Article 2(1), Article 9(1), Article 167 and Article 168(a) — Deduction of input tax — Definition of ‘taxable person’ — Holding company — Expenditure linked to a shareholder contribution in kind to its subsidiaries — No contribution of expenditure to the general costs — Subsidiaries’ activities largely tax-exempt)*

(2022/C 408/18)

Language of the case: German

**Referring court**

Bundesfinanzhof

**Parties to the main proceedings**

Applicant: Finanzamt R

Defendant: W-GmbH

**Operative part of the judgment**

Article 168(a) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, read in conjunction with Article 167 thereof,

must be interpreted as meaning that:

a holding company which carries out taxable output transactions in favour of subsidiaries is not entitled to deduct the input tax levied on the services that it obtains from third parties and supplies to the subsidiaries in return for the grant of a share in the general profit, where, first, the input services have direct and immediate links not with the holding company's own transactions but with the largely tax-exempt activities of the subsidiaries, second, those services are not included in the price of the taxable transactions carried out in favour of the subsidiaries and, third, the said services are not part of the general costs of the holding company's own economic activity.

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<sup>(1)</sup> OJ C 182, 10.5.2021.

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**Judgment of the Court (Fifth Chamber) of 8 September 2022 (request for a preliminary ruling from the Tribunal Supremo — Spain) — Asociación Multisectorial de Empresas de la Electrónica, las Tecnologías de la Información y la Comunicación, de las Telecomunicaciones y de los Contenidos Digitales (AMETIC) v Administración del Estado and Others**

(Case C-263/21) <sup>(1)</sup>

*(Reference for a preliminary ruling — Copyright and related rights — Directive 2001/29/EC — Article 5 (2)(b) — Exclusive reproduction right — Exception — Copies for private use — Levy — Ex ante exemption — Exemption certificate issued by a private law entity controlled solely by copyright management societies — Powers of review of that entity)*

(2022/C 408/19)

Language of the case: Spanish

**Referring court**

Tribunal Supremo

**Parties to the main proceedings**

*Applicant:* Asociación Multisectorial de Empresas de la Electrónica, las Tecnologías de la Información y la Comunicación, de las Telecomunicaciones y de los Contenidos Digitales (AMETIC)

*Defendants:* Administración del Estado, Entidad de Gestión de Derechos de los Productores Audiovisuales (EGEDA), Asociación para el Desarrollo de la Propiedad Intelectual (ADEPI), Artistas Intérpretes o Ejecutantes, Sociedad de Gestión de España (AIE), Artistas Intérpretes, Entidad de Gestión de Derechos de Propiedad Intelectual (AISGE), Ventanilla Única Digital, Derechos de Autor de Medios Audiovisuales (DAMA), Centro Español de Derechos Reprográficos (CEDRO), Asociación de Gestión de Derechos Intelectuales (AGEDI), Sociedad General de Autores y Editores (SGAE)

**Operative part of the judgment**

1. Both Article 5(2)(b) of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society and the principle of equal treatment

must be interpreted as not precluding national legislation under which a legal person established and controlled by intellectual property rights management organisations is entrusted with the management of (i) exemptions from payment in respect of compensation for private copying and (ii) reimbursements in respect of such compensation, where that national legislation provides that exemption certificates and reimbursements must be granted in good time and in accordance with objective criteria which do not allow that legal person to refuse an application for the granting of such a certificate or of reimbursement on the basis of considerations involving the exercise of discretion and that the decisions of that legal person refusing such an application may be challenged before an independent body.

2. Article 5(2)(b) of Directive 2001/29 and the principle of equal treatment

must be interpreted as not precluding national legislation which empowers a legal person, which is established and controlled by intellectual property rights management organisations and which is entrusted with the management of (i) exemptions from payment in respect of compensation for private copying and (ii) reimbursements in respect of such compensation, to request access to the information necessary for the exercise of the powers of review conferred on it in that regard, without it being possible, in particular, for the person under review to rely on the confidentiality of business accounts provided for by national law, that legal person being obliged to safeguard the confidential nature of the information obtained.

(<sup>1</sup>) OJ C 329, 16.8.2021.

**Judgment of the Court (Tenth Chamber) of 1 August 2022 (request for a preliminary ruling from the Înalta Curte de Casație și Justiție — Romania) — Uniqa Asigurări SA v Agenția Națională de Administrare Fiscală — Direcția Generală de Soluționare a Contestațiilor, Direcția Generală de Administrare a Marilor Contribuabili**

(Case C-267/21) (<sup>1</sup>)

**(Reference for a preliminary ruling — Taxation — Value added tax (VAT) — Directive 2006/112/EC — Article 56 — Supply of insurance services — Point of reference for tax purposes — Claims settlement services provided by third-party companies in the name and on behalf of an insurer)**

(2022/C 408/20)

Language of the case: Romanian

**Referring court**

Înalta Curte de Casație și Justiție