Re:

Reference for a preliminary ruling — Bundesfinanzhof — Interpretation of Article 5(8) 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) — Possibility for the Member States to exempt from VAT the transfer of a totality of assets — Lease for an indefinite period of the shop premises of a retail outlet together with the transfer to the lessee of ownership of the stock and shop fittings of the retail outlet — Possibility of categorising such a transaction as a 'transfer of a totality of assets' for the purposes of Article 5(8) of Directive 77/388/EEC.

Operative part of the judgment

Article 5(8) 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 must be interpreted as meaning that there is a transfer of a totality of assets, or a part thereof, for the purposes of that provision, where the stock and fittings of a retail outlet are transferred concomitantly with the conclusion of a contract of lease, to the transferee, of the premises of that outlet for an indefinite period but terminable at short notice by either party, provided that the assets transferred are sufficient for the transferee to be able to carry on an independent economic activity on a lasting basis.

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(1) OJ C 317, 20.11.2010.

Judgment of the Court (Second Chamber) of 17 November 2011 (reference for a preliminary ruling from the Bundesfinanzhof — Germany) — Oliver Jestel v Hauptzollamt Aachen

(Case C-454/10) (1)

(Community Customs Code — Second indent of Article 202(3) — Customs debt incurred through unlawful introduction of goods — Meaning of 'debtor' — Participation in unlawful introduction — Person acting as intermediary in conclusion of contracts of sale relating to goods introduced unlawfully)

(2012/C 25/29)

Language of the case: German

Referring court

Bundesfinanzhof

Parties to the main proceedings

Applicant: Oliver Jestel

Defendant: Hauptzollamt Aachen

Re:

Reference for a preliminary ruling — Bundesfinanzhof — Interpretation of the second indent of Article 202(3) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ 1992 L 302, p. 1) — Customs debt incurred through the unlawful introduction of goods into the customs territory of the European Union — Person acting as intermediary in conclusion of contracts of sale relating to goods introduced unlawfully without directly taking part in that introduction — Conditions under which such a person can be considered to be a debtor of a customs debt.

Operative part of the judgment

The second indent of Article 202(3) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code must be interpreted as meaning that a person who, without being directly involved in the introduction of goods, participated in the introduction as intermediary in the conclusion of contracts of sale relating to those goods must be considered to be a debtor of a customs debt incurred through the unlawful introduction of goods into the customs territory of the European Union where that person was aware, or should reasonably have been aware, that that introduction was unlawful, which is a matter for the national court to determine.

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(1) OJ C 317, 20.11.2010.

Judgment of the Court (Third Chamber) of 24 November 2011 (references for a preliminary ruling from the Tribunal Supremo — Spain) — Asociación Nacional de Establecimientos Financieros de Crédito (ASNEF) (C-468/10), Federación de Comercio Electrónico y Marketing Directo (FECEMD) (C-469/10) v Administración del Estado

(Joined Cases C-468/10 and C-469/10) (1)

(Processing of personal data — Directive 95/46/EC — Article 7(f) — Direct effect)

(2012/C 25/30)

Language of the cases: Spanish

Referring court

Tribunal Supremo

Parties to the main proceedings

Applicants: Asociación Nacional de Establecimientos Financieros de Crédito (ASNEF) (C-468/10), Federación de Comercio Electrónico y Marketing Directo (FECEMD) (C-469/10)

Defendant: Administración del Estado

Re:

Reference for a preliminary ruling — Tribunal Supremo — Interpretation of Article 7(f) of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ 1995 L 281, p. 31) — Processing of data by controllers and communication to the addressees to satisfy their respective legitimate interests — Additional requirements — Direct effect of the provisions of a directive