

4. The judgment incorrectly applies the PICARO/PICASSO judgment given that (i) in the PICASSO/PICARO case the well-known mark was the opponent's mark 'PICASSO' whereas, in the present case, the allegedly well-known mark is the mark applied for; and (ii) that judgment dealt with goods in respect of which the level of attention of the average consumer, at the time of purchase, is particularly high whereas the present case concerns goods intended for the reasonably well-informed and reasonably observant and circumspect average consumer in the European Union.

(¹) ECLI:EU:T:2018:230

**Request for a preliminary ruling from the Bundesfinanzhof (Germany) lodged on 25 July 2018 —
Finanzamt Kaufbeuren mit Außenstelle Füssen v Golfclub Schloss Igling e.V.**

(Case C-488/18)

(2018/C 392/09)

Language of the case: German

Referring court

Bundesfinanzhof

Parties to the main proceedings

Appellant: Finanzamt Kaufbeuren mit Außenstelle Füssen

Respondent: Golfclub Schloss Igling e.V.

Questions referred

1. Does Article 132(1)(m) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, (¹) under which Member States are to exempt 'the supply of certain services closely linked to sport or physical education by non-profit-making organisations to persons taking part in sport or physical education', have direct effect, with the result that, in the absence of transposition, that provision may be relied on directly by non-profit-making organisations?
2. If the first question is answered in the affirmative: Is 'non-profit-making organisation' within the meaning of Article 132(1)(m) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax
 - a concept that must be interpreted under EU law autonomously, or
 - are the Member States authorised to make the existence of such an organisation subject to conditions such as Paragraph 52, in conjunction with Paragraph 55, of the Abgabenordnung (German General Tax Code) (or Paragraph 51 et seq. of the General Tax Code in their entirety)?
3. If it is a concept that must be interpreted under EU law autonomously: Must a non-profit-making organisation within the meaning of Article 132(1)(m) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax have rules that apply in the event that the organisation is dissolved, under which it has to transfer its existing assets to another non-profit-making organisation in order to promote sport and physical education?

(¹) OJ 2006 L 347, p. 1.