

**Parties to the main proceedings**

*Applicant:* Coty Germany GmbH

*Defendants:* Amazon Services Europe S.a.r.l., Amazon FC Graben GmbH, Amazon Europe Core S.a.r.l., Amazon EU S.a.r.l.

**Question referred**

Does a person who, on behalf of a third party, stores goods which infringe trade mark rights, without having knowledge of that infringement, stock those goods for the purpose of offering them or putting them on the market, if it is not that person himself but rather the third party alone which intends to offer the goods or put them on the market? <sup>(1)</sup>

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<sup>(1)</sup> Interpretation of Article 9(2)(b) of Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark (OJ 2009 L 78, p. 1) and interpretation of Article 9(3)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trade mark (OJ 2017 L 154, p. 1).

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**Request for a preliminary ruling from the Bundesfinanzhof (Germany) lodged on 13 September 2018 — C GmbH & Co. KG v Z Tax Office**

**(Case C-573/18)**

(2018/C 427/22)

*Language of the case: German*

**Referring court**

Bundesfinanzhof

**Parties to the main proceedings**

*Applicant and Appellant in the appeal on a point of law:* C GmbH & Co. KG

*Defendant and Respondent in the appeal on a point of law:* Z Tax Office

**Questions referred**

1. Under circumstances such as those of the main proceedings, in which a producer organisation within the meaning of Article 11(1) and Article 15 of Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organization of the market in fruit and vegetables (Regulation No 2200/96) <sup>(1)</sup> supplies goods to the producers that are its members and receives for this from the producers a payment which does not cover the purchase price,
  - a) is an exchange with an extra cash charge deemed to exist because the producers, in return for the supply, have contractually undertaken vis-a-vis the producer organisation to supply fruit and vegetables to the producer organisation for the duration of the earmarking period, with the consequence that the taxable amount of the supply is the purchase price for the capital goods paid by the producer organisation to the upstream suppliers?
  - b) is the entirety of the amount which the operational fund actually pays to the producer organisation for the supply a 'subsidy directly linked to the price of such supplies' within the meaning of Article 11(A)(1)(a) of the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes (Directive 77/388/EEC), <sup>(2)</sup> with the consequence that the taxable amount also encompasses the financial assistance within the meaning of Article 15 of Regulation No 2200/96 which has been granted to the operational fund on the basis of an operational programme?

2. If, on the basis of the answer to question 1, only the payments made by the producers, but not the supply obligation and the financial assistance, are to be taken as the taxable amount: under the circumstances specified in question 1, does Article 11(A)(1)(a) of Directive 77/388/EEC preclude a national special measure based on Article 27(1) of Directive 77/388/EEC such as Paragraph 10(5)(1) of the Umsatzsteuergesetz (Law on turnover tax; 'the UStG'), according to which the taxable amount of the supplies to the producers is the purchase price for the capital goods paid by the producer organisation to the upstream suppliers because the producers are related parties?
3. If question 2 is answered in the negative: is this also the case if the producers have a full right of deduction because the capital goods are subject to adjustments of deductions (Article 20 of Directive 77/388/EEC)?

<sup>(1)</sup> OJ 1996 L 297, p. 1.

<sup>(2)</sup> OJ 1977 L 145, p. 1.

**Request for a preliminary ruling from the Bundesfinanzhof (Germany) lodged on 13 September 2018 — C-eG v Z Tax Office**

(Case C-574/18)

(2018/C 427/23)

*Language of the case: German*

**Referring court**

Bundesfinanzhof

**Parties to the main proceedings**

*Applicant and appellant in the appeal on a point of law: C-eG*

*Defendant and respondent in the appeal on a point of law: Z Tax Office*

**Questions referred**

1. Under circumstances such as those of the main proceedings, in which a producer organisation within the meaning of Article 11(1) and Article 15 of Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organization of the market in fruit and vegetables (Regulation No 2200/96) <sup>(1)</sup> supplies goods to the producers that are its members and receives for this from the producers a payment which does not cover the purchase price,
  - a) is an exchange with a cash supplement deemed to exist because the producers, in return for the supply, have contractually undertaken vis-a-vis the producer organisation to deliver fruit and vegetables to the producer organisation for the duration of the earmarking period, with the consequence that the taxable amount of the supply is the purchase price for the capital goods paid by the producer organisation to the upstream suppliers?
  - b) is the entirety of the amount which the operational fund actually pays to the producer organisation for the supply a 'subsidy directly linked to the price of such supplies' within the meaning of Article 11(A)(1)(a) of the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes (Directive 77/388/EEC), <sup>(2)</sup> with the consequence that the taxable amount also encompasses the financial assistance within the meaning of Article 15 of Regulation No 2200/96 which has been granted to the operational fund by the competent authorities on the basis of an operational programme?
2. If, on the basis of the answer to question 1, only the payments made by the producers, but not the supply obligation and the financial assistance, are to be taken as the taxable amount: under the circumstances specified in question 1, does Article 11(A)(1)(a) of Directive 77/388/EEC preclude a national special measure based on Article 27(1) of Directive 77/388/EEC such as Paragraph 10(5)(1) of the Umsatzsteuergesetz (Law on turnover tax; 'the UStG'), according to which the taxable amount of the supplies to the producers is the purchase price for the capital goods paid by the producer organisation to the upstream suppliers because the producers are related parties?