Judgment of the Court (Second Chamber) of 16 July 2015 (request for a preliminary ruling from the Bundesfinanzhof — Germany) — Beteiligungsgesellschaft Larentia + Minerva mbH & Co. KG v Finanzamt Nordenham (C-108/14), Finanzamt Hamburg-Mitte v Marenave Schiffahrts AG (C-109/14)

(Joined Cases C-108/14 and C-109/14) ([1])

(Reference for a preliminary ruling — VAT — Sixth Council Directive 77/388/EEC — Article 17 — Right to deduction — Partial deduction — VAT paid by holding companies for the acquisition of capital invested in their subsidiaries — Services supplied to subsidiaries — Subsidiaries constituted in the form of partnerships — Article 4 — Establishment of a group of persons capable of being regarded as a single taxable person — Conditions — Need for a relationship of subordination — Direct effect)

(2015/C 302/08)

Language of the case: German

Referring court

Bundesfinanzhof

Parties to the main proceedings

Applicants: Beteiligungsgesellschaft Larentia + Minerva mbH & Co. KG (C–108/14), Finanzamt Hamburg-Mitte (C–109/14)

Defendants: Finanzamt Nordenham (C–108/14), Marenave Schiffahrts AG (C–109/14)

Operative part of the judgment

1. *Article 17(2) and (5) 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, as amended by Council Directive 2006/69/EC of 24 July 2006, must be interpreted as meaning that:*

   — *the expenditure connected with the acquisition of shareholdings in subsidiaries incurred by a holding company which involves itself in their management and which, on that basis, carries out an economic activity must be regarded as belonging to its general expenditure and the value added tax paid on that expenditure must, in principle, be deducted in full, unless certain output economic transactions are exempt from value added tax under Sixth Directive 77/388, as amended by Directive 2006/69, in which case the right to deduct should have effect only in accordance with the procedures laid down in Article 17(5) of that directive;*

   — *the expenditure connected with the acquisition of shareholdings in subsidiaries incurred by a holding company which involves itself in the management only of some of those subsidiaries and which, with regard to the others, does not, by contrast, carry out an economic activity must be regarded as only partially belonging to its general expenditure, so that the value added tax paid on that expenditure may be deducted only in proportion to that which is inherent to the economic activity, according to the criteria for apportioning defined by the Member States, which when exercising that power, must have regard to the aims and broad logic of the Sixth Directive and, on that basis, provide for a method of calculation which objectively reflects the part of the input expenditure actually to be attributed, respectively, to economic and to non-economic activity, which it is for the national courts to establish.*

2. *The second subparagraph of Article 4(4) of Sixth Directive 77/388, as amended by Directive 2006/69, must be interpreted as precluding national legislation which reserves the right to form a value added tax group, as provided for in those provisions, solely to entities with legal personality and linked to the controlling company of that group in a relationship of subordination, except where those two requirements constitute measures which are appropriate and necessary in order to achieve the objectives seeking to prevent abusive practices or behaviour or to combat tax evasion or tax avoidance, which it is for the referring court to determine.*

3. *Article 4(4) of Sixth Directive 77/388, as amended by Directive 2006/69, may not be considered to have direct effect allowing taxable persons to claim the benefit thereof against their Member State in the event that that State's legislation is not compatible with that provision and cannot be interpreted in a way compatible with it.*

([1]) OJ C 159, 26.5.2014.

Judgment of the Court (Second Chamber) of 16 July 2015 (request for a preliminary ruling from the Înalta Curte de Casație și Justiție — Romania) — ING Pensii, Societate de Administrare a unui Fond de Pensii Administrat Privat SA v Consiliul Concurenței

(Case C-172/14) ([1])

(Reference for a preliminary ruling — Agreements, decisions and concerted practices — Arrangement for sharing clients on a private pension fund market — Whether there is a restriction of competition within the meaning of Article 101 TFUE — Effect on trade between Member States)

(2015/C 302/09)

Language of the case: Romanian

Referring court

Înalta Curte de Casație și Justiție

Parties to the main proceedings

Applicant: ING Pensii, Societate de Administrare a unui Fond de Pensii Administrat Privat SA

Defendant: Consiliul Concurenței

Operative part of the judgment

Article 101(1) TFEU must be interpreted as meaning that agreements to share clients, such as those concluded between the private pensions funds in the main proceedings, constitute agreements with an anti-competitive object, the number of clients affected by such an agreement being irrelevant for the purpose of assessing the requirement relating to the restriction of competition within the internal market.

([1]) OJ C 212, 7.7.2014.

Judgment of the Court (Third Chamber) of 16 July 2015 (request for a preliminary ruling from the Corte suprema di cassazione (Italy)) — A v B

(Case C-184/14) ([1])

(Reference for a preliminary ruling — Judicial cooperation in civil and commercial matters — Jurisdiction in matters relating to maintenance obligations — Regulation (EC) No 4/2009 — Article 3(c) and (d) — Matter relating to maintenance in respect of minor children concurrent with the parents' separation proceedings, brought in a Member State other than that in which the children are habitually resident)

(2015/C 302/10)

Language of the case: Italian

Referring court

Corte suprema di cassazione