

V

(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Reference for a preliminary ruling from Upper Tribunal (Tax and Chancery Chamber) (United Kingdom) made on 13 March 2015 — Commissioners for Her Majesty's Revenue and Customs v National Exhibition Centre Limited

(Case C-130/15)

(2015/C 190/02)

Language of the case: English

Referring court

Upper Tribunal (Tax and Chancery Chamber)

Parties to the main proceedings

Applicant: Commissioners for Her Majesty's Revenue and Customs

Defendant: National Exhibition Centre Limited

Questions referred

1. With regard to the exemption from VAT in Article 13B(d)(3) of the Sixth Directive (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) ⁽¹⁾ as interpreted by the Court of Justice in Case C-2/95 Sparekassernes Datacenter v Skatteministeriet (ECLI:EU:C: 1997:278; [1997] ECR I-3017), what are the relevant principles to be applied for determining whether or not a service has 'the effect of transferring funds and entail[s] changes in the legal and financial situation' within the meaning of paragraph 66 of that judgment? In particular:
 - 1.1. Is the exemption applicable to a service, such as that performed by the taxpayer in the present case, which does not involve the taxpayer debiting or crediting any accounts over which it has control, but which is, where a transfer of funds results, the cause of a transfer of funds made by an independent financial institution?
 - 1.2. In a case where payment is made by credit or debit card, does the answer to Question 1.1 depend on whether the service provider itself obtains authorisation codes directly from the cardholder's bank, or alternatively obtains those codes via its merchant acquirer bank?
 - 1.3. What factors distinguish (a) a service which consists in the provision of financial information without which a payment would not be made but which does not fall within the exemption (such as in Case C-350/10 Nordea Pankki Suomi (ECLI:EU:C:2011:532; [2011] ECR I-7359), from (b) a data handling service which functionally has the effect of transferring funds and which the Court of Justice has identified as therefore being capable of falling within the exemption (such as in SDC at paragraph 66)?

2. What are the relevant principles to be applied for determining whether or not a service such as that performed by the taxpayer in the present case falls within the scope of the 'debt collection' exclusion from the exemption in Article 13B(d) (3) of the Sixth Directive? In particular, if a service of processing payment by a particular method (e.g. debit or credit card) would, pursuant to the principles in Case C-175/09 *Commissioners for Her Majesty's Revenue and Customs v AXA UK plc* (ECLI:EU:C:2010:646; [2010] ECR I-10701), constitute 'debt collection' in circumstances where the supply of that service was to the person to whom that payment was due (i.e. the person receiving the payment), will that service also constitute 'debt collection' in circumstances where the supply of that service is to the person from whom the payment is due (i.e. the person making the payment)? Further, in the circumstances of this case, does a 'debt' even exist to be 'collected'?

(¹) OJ L 145, p. 1.

Appeal brought on 23 March 2015 by Teva Pharma BV and Teva Pharmaceuticals Europe BV against the judgment of the General Court (Sixth Chamber) delivered on 22 January 2015 in Case T-140/12: Teva Pharma BV and Teva Pharmaceuticals Europe BV v European Medicines Agency (EMA)

(Case C-138/15 P)

(2015/C 190/03)

Language of the case: English

Parties

Appellants: Teva Pharma BV and Teva Pharmaceuticals Europe BV (represented by: G. Morgan, Solicitor, K. Bacon, Barrister and E.S. Mackenzie, Solicitor)

Other parties to the proceedings: European Medicines Agency, European Commission

Form of order sought

The appellants claim that the Court should:

- Set aside the judgment of the General Court;
- Annul the decision of the EMA, contained in its letter of 24 January 2012, refusing to validate the appellant's application for a marketing authorization;
- Order the EMA to pay the costs of the Appellants.

Pleas in law and main arguments

In support of the appeal, the appellants advance one ground of appeal, which is that the General Court erred in law in its interpretation of Article 8 of Regulation (EC) No 141/2000 (¹). Three distinct errors of law are alleged. First, it is alleged that the General Court misinterpreted Article 8(3) read together with Article 8(1), in that it failed to appreciate that a second similar orphan product authorised under an Article 8(3) derogation cannot attract the reward of market exclusivity that is provided for the first orphan product under Article 8(1).

Second, it erred in concluding that its interpretation of Article 8 does not have the effect of extending the market exclusively attaching to the first product.