Reports of Cases

JUDGMENT OF THE COURT (Fourth Chamber)

16 September 2021 *

(Reference for a preliminary ruling – Common system of value added tax (VAT) – Directive 2006/112/EC – Scope – Article 2(1)(c) – Supply of services for consideration – Exclusion of audiovisual media services offered to viewers, that are financed by a public subsidy and do not entail any payment on the part of viewers – Article 168 – Right of deduction – Taxable person carrying out both taxable transactions and transactions not falling within the scope of VAT)

In Case C-21/20,

REQUEST for a preliminary ruling under Article 267 TFEU from the Administrativen sad Sofia-grad (Sofia Administrative Court, Bulgaria), made by decision of 31 December 2019, received at the Court on 17 January 2020, in the proceedings

Balgarska natsionalna televizia

v

Direktor na Direktsia 'Obzhalvane i danachno-osiguritelna praktika' – Sofia pri Tsentralno upravlenie na NAP,

THE COURT (Fourth Chamber),

composed of M. Vilaras, President of the Chamber, N. Piçarra, D. Šváby, S. Rodin and K. Jürimäe (Rapporteur), Judges,

Advocate General: M. Szpunar,

Registrar: M. Aleksejev, Head of Unit,

having regard to the written procedure,

after considering the observations submitted on behalf of:

– Balgarska natsionalna televizia, by M. Raykov and I. Dimitrova, advokati,

– the Spanish Government, by S. Jiménez García, acting as Agent,

– the European Commission, initially by C. Georgieva and N. Gossement, and subsequently by C. Georgieva and L. Lozano Palacios, acting as Agents,

* Language of the case: Bulgarian.

after hearing the Opinion of the Advocate General at the sitting on 25 March 2021,

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Article 2(1)(c), Article 132(1)(q) and Article 168 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1) ('the VAT Directive').

2 The request has been made in proceedings between Balgarska natsionalna televizia (Bulgarian national television) ('BNT') and the Direktor na Direktsia 'Obzhalvane i danachno-osiguritelna praktika' – Sofia pri Tsentralno upravlenie na Natsionalnata agentsia za prihodite (Director of the Sofia 'Appeals and Tax and Social Insurance Practice' Directorate within the Central Administration of the National Revenue Agency (NAP), Bulgaria) ('the Director'), concerning the scope of BNT's right to deduct value added tax (VAT).

Legal context

European Union law

3 Under Article 2(1)(c) of the VAT Directive:

'The following transactions shall be subject to VAT:

…

(c) the supply of services for consideration within the territory of a Member State by a taxable person acting as such.'

4 Article 25(c) of that directive provides:

'A supply of services may consist, inter alia, in one of the following transactions:

…

(c) the performance of services in pursuance of an order made by or in the name of a public authority or in pursuance of the law.'

5 Article 132(1)(q) of that directive is worded as follows:

'Member States shall exempt the following transactions:

…

(q) the activities, other than those of a commercial nature, carried out by public radio and television bodies.'

6 Article 168 of that directive states:

‘In so far as the goods and services are used for the purposes of the taxed transactions of a taxable person, the taxable person shall be entitled, in the Member State in which he carries out these transactions, to deduct the following from the VAT which he is liable to pay:

(a) the VAT due or paid in that Member State in respect of supplies to him of goods or services, carried out or to be carried out by another taxable person;

…’

7 Articles 173 to 175 of the VAT Directive set out the rules governing the calculation of the proportional deduction.

8 Article 173(1) of that directive provides:

‘In the case of goods or services used by a taxable person both for transactions in respect of which VAT is deductible pursuant to Articles 168, 169 and 170, and for transactions in respect of which VAT is not deductible, only such proportion of the VAT as is attributable to the former transactions shall be deductible.

The deductible proportion shall be determined, in accordance with Articles 174 and 175, for all the transactions carried out by the taxable person.’

Bulgarian law

9 Article 2(1) of the Zakon za danak varhu dobavenata stoynost (Law on Value Added Tax) of 21 July 2006 (DV No 63 of 4 August 2006, p. 8), in the version applicable to the dispute in the main proceedings (‘the ZDDS’) states:

‘The following shall be subject to [VAT]:

1. any taxable supply of goods or services made for consideration …’

10 Article 3 of the ZDDS provides:

‘(1) Taxable person shall mean any person who carries out an independent economic activity, whatever the purposes and results of that activity.

…

(5) Non-taxable persons are the State, State authorities and local authorities for all activities and transactions which they carry out or provide in the exercise of State or local public authority, including cases in which they collect fees, contributions or duties for those activities or transactions. Excluded therefrom are:

1. the following activities or transactions:

…
(n) radio and television activity of a commercial nature …’

11 Article 42(2) of the ZDDS provides:

'Exempt transactions are:

…

2. the activity of the Bulgarian national radio, [BNT] and the Bulgarian news agency, for which they receive payments from the State budget.'

12 Under Article 69(1) of the ZDDS:

'Where the goods and services are used for the purposes of taxable transactions carried out by a person registered for value added tax purposes, that person shall be entitled to deduct the following:

1. the tax on the goods and services which were supplied or provided or are supplied or provided thereto by the supplier or service provider, this being a person likewise registered under this law …'

13 Article 73(1) of the ZDDS states:

'The registered person shall have the right to partial input tax deduction with regard to the goods or services which are used both for transactions in respect of which the person has a right to input tax deduction and for transactions or activities in respect of which the person has no such right.'

The dispute in the main proceedings and the questions referred for a preliminary ruling

14 BNT is a legal person, a national public provider of audiovisual media services. In accordance with the zakon za radioto i televisiyata (Law on Radio and Television) of 23 September 1998 (DV No 138 of 24 November 1998), in the version applicable to the dispute in the main proceedings ('the ZRT'), BNT is responsible, in particular, for the provision of media services to all Bulgarian citizens.

15 BNT does not receive any remuneration from its viewers.

16 Its activity is financed, in accordance with the ZRT, by a subsidy from the State budget which is provided for the preparation, production and broadcasting of national and regional programmes. The amount of that subsidy is determined on the basis of a flat rate per programme hour fixed by the Council of Ministers. In addition, BNT receives subsidies with predetermined objectives, intended for the acquisition and in-depth renovation of fixed assets in accordance with a list which is approved annually by the Minister for Finance.

17 The activity of BNT is also financed by self-generated income from advertising and sponsorship, income from additional activities linked to the broadcasting activity, donations and legacies, interests, and other income linked to the broadcasting activity.

18 Until March 2015, BNT made a partial input tax deduction in respect of all of its purchases. Subsequently, it started to apply the 'direct allocation' method by examining, in isolation, for each purchase that it made, whether it was used or was capable of being used for an activity of a 'commercial' nature, such as entertainment programmes, films or sports programmes, or for an

activity which is part of the 'performance of the public service task', such as the broadcasting of parliamentary sessions or the retransmission of religious ceremonies or election coverage. BNT also took the view that its activity of broadcasting television programmes did not constitute an 'exempt transaction' within the meaning of the ZDDS, but an activity which did not fall within the scope of VAT, and that it was only its activity of a 'commercial' nature that fell within the scope of that tax.

19 In accordance with that method, BNT made a full input tax deduction in respect of the purchases relating to its activities of a 'commercial' nature. It made a partial input tax deduction in respect of the purchases which were used both for activities of a 'commercial' nature and for activities which were not of that nature.

20 Following a tax audit covering the period from 1 September 2015 to 31 March 2016, the Bulgarian tax inspection authorities, by a tax adjustment notice of 14 December 2016, refused to recognise a right to a full deduction in respect of the purchases undertaken by BNT, and found that BNT owed for that period VAT amounting to 1 568 037.04 leva (BGN) (approximately EUR 801 455), together with interest.

21 According to those authorities, BNT's advertising activity was taxable, whereas its programme broadcasting activity was an exempt transaction. BNT could not make a full input tax deduction since it was impossible to determine whether the purchases relating to its economic activity were intended for transactions subject to VAT or for transactions which, according to those authorities, were exempt from VAT. BNT could make a full input tax deduction in respect of those purchases only if the activities of broadcasting sports programmes, producing and broadcasting entertainment programmes and broadcasting foreign films were financed entirely by advertising revenue and not by subsidies from the State budget. That was not the position in the present case.

22 By decision of 27 February 2017, the Director rejected the complaint lodged by BNT against the notification of tax liability of 14 December 2016.

23 BNT then brought an action against that decision before the Administrativen sad Sofia-grad (Sofia Administrative Court, Bulgaria), the referring court.

24 That court takes the view that, for the purposes of ruling on the dispute in the main proceedings, it is necessary to determine whether the activity of broadcasting programmes carried out by BNT as a public service provider to which specific tasks are assigned by the ZRT and which receives subsidies from the State budget constitutes a service supplied for consideration within the meaning of Article 2(1)(c) of the VAT Directive, but exempt from VAT under Article 132(1)(q) of that directive, or whether that activity does not constitute a taxable transaction falling within the scope of that directive. According to that court, the answer to that question will make it possible to establish whether such a broadcasting activity must be taken into account in order to determine the right to input tax deduction in respect of the taxable transactions of which the BNT is the recipient.

25 The referring court adds that, although, in the judgment of 22 June 2016, *Český rozhlas* (C-11/15, EU:C:2016:470), the Court examined the question whether the public broadcasting activity of the Czech national radio, for which the latter received fees paid by owners or possessors of a radio receiver, constitutes an activity supplied for consideration, the Court has not yet ruled on the activity of the public television provider financed by subsidies from the State budget.

26 The referring court also states that, although, in its judgment of 27 March 2014, *Le Rayon d'Or* (C-151/13, EU:C:2014:185), the Court ruled on the question whether a lump-sum payment paid by a national sickness insurance fund falls within the scope of VAT, no unequivocal answer can be inferred from that judgment for the purposes of the dispute in the main proceedings.

27 In addition, if BNT's activity were to be regarded as having a dual nature, namely that it included both exempt and taxable transactions, the referring court wishes to ascertain whether it is only the proportion of the input tax which may be regarded as being linked to the part of its activity of a 'commercial' nature that is deductible. Moreover, in such a situation, that court is uncertain what criteria should be used to determine the scope of the right to deduction.

28 In those circumstances, the Administrativen sad Sofia-grad (Sofia Administrative Court) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

'(1) Can the supply of audiovisual media services to viewers by the public television broadcaster be regarded as a service supplied for consideration within the meaning of Article 2(1)(c) of [the VAT Directive] if it is financed by the State in the form of subsidies, with the viewers paying no fees for the broadcasting, or does it not constitute a service supplied for consideration within the meaning of that provision and not fall within the scope of that Directive?

(2) If the answer is that the audiovisual media services provided to viewers by the public television broadcaster fall within the scope of Article 2(1)(c) of [the VAT Directive], can it then be considered that exempt transactions for the purposes of Article 132(1)(q) of the Directive are involved, and is a national regulation which exempts this activity solely on the basis of the payment from the State budget received by the public television broadcaster, regardless of whether that activity is also of a commercial nature, permissible?

(3) Is a practice which makes a full right of input tax deduction for purchases dependent not solely on the use of the purchases (for taxable or non-taxable activity), but also on the way in which those purchases are financed, namely on the one hand from self-generated income (advertising services inter alia), and on the other hand from State subsidisation, and which grants the right to full input tax deduction only for purchases financed from self-generated income and not for those financed through State subsidies, with the delimitation thereof being required, permissible pursuant to Article 168 of [the VAT Directive]?

(4) If it is considered that the activity of the public television broadcaster consists of taxable and exempt transactions, having regard to its mixed financing, what is the scope of the right to input tax deduction in respect of those purchases and which criteria must be applied for the determination thereof[?]'

Consideration of the questions referred

The first question

29 By its first question, the referring court asks, in essence, whether Article 2(1)(c) of the VAT Directive must be interpreted as meaning that the activity of a public national television provider, consisting in the supply of audiovisual media services to viewers, which is financed by the State in the form of subsidies and for which no fees for the broadcasting are payable by the viewers, constitutes a supply of services for consideration within the meaning of that provision.

30 In that regard, it must be borne in mind that, in accordance with Article 2(1)(c) of the VAT Directive, which defines the scope of VAT, the supply of services for consideration within the territory of a Member State by a taxable person acting as such are to be subject to VAT.

31 A supply of services is carried out 'for consideration', within the meaning of that provision, only if there is a legal relationship between the provider of the service and the recipient pursuant to which there is reciprocal performance, the remuneration received by the provider of the service constituting the actual consideration for an identifiable service supplied to the recipient. This is the case if there is a direct link between the service supplied and the consideration received (see, to that effect, judgments of 8 March 1988, *Apple and Pear Development Council*, C-102/86, EU:C:1988:120, paragraphs 11, 12 and 16; of 22 June 2016, *Český rozhlas*, C-11/15, EU:C:2016:470, paragraph 22; and of 22 November 2018, *MEO – Serviços de Comunicações e Multimédia*, C-295/17, EU:C:2018:942, paragraph 39).

32 As regards audiovisual media services supplied by a national public provider to viewers, which are financed by the State in the form of subsidies, and for which no fees are payable by the viewers, there is no legal relationship between that provider and those viewers, in the course of which there is an exchange of reciprocal performance, or direct link between those audiovisual media services and that subsidy (see, by analogy, judgment of 22 June 2016, *Český rozhlas*, C-11/15, EU:C:2016:470, paragraph 23).

33 First of all, it must be observed that, in the context of the provision of those services, that provider and those viewers are not linked by any contractual relationship or transaction in which a price was stipulated, or even by a voluntary legal commitment made by one party towards the other. Additionally, the access of those viewers to the audiovisual media services provided by that provider is free and the activity concerned generally benefits all potential viewers.

34 Next, it should be noted that the subsidy and the subsidised activity are organised on the basis of the law. The grant of the subsidy, which is intended to finance, generally, the activities of the national public provider, consisting in preparing, producing and broadcasting national and regional programmes, and which is determined by reference to a flat rate per programme hour, is independent of the actual use, by the viewers, of the audiovisual media services provided, of the identity or of the actual number of viewers for each programme.

35 In addition, as regards the referring court's questions on the parallel that can be drawn between the situation at issue in the main proceedings and the situation in the case which gave rise to the judgment of 27 March 2014, *Le Rayon d'Or* (C-151/13, EU:C:2014:185), it must be held that those situations are not comparable.

36 The case which gave rise to that judgment concerned the taxable nature of a 'healthcare lump sum' paid by a national sickness insurance fund to residential care homes for the elderly for the supply of healthcare services to their residents, the calculation of which took account, in particular, of the number of residents hosted by each home and their dependency level. In that judgment, the Court held that a direct link existed between the supply of services provided by those establishments to their residents and the consideration received, namely the 'healthcare lump sum', so that such a lump sum payment constituted consideration for the supply of care services effected for consideration by one of those establishments to its residents and, as a result, fell within the scope of VAT. It stated, in that regard, that the fact that the direct beneficiary of the services in question is not the national sickness insurance fund which pays the lump sum but the person insured under it, is not such as to break the direct link between the supply of services made and the consideration received (judgment of 27 March 2014, *Le Rayon d'Or*, C-151/13, EU:C:2014:185, paragraph 35).

37 In the present case, there is no relationship between the State, which pays a subsidy from its budget in order to finance audiovisual media services, and the viewers, who benefit from those services, which would be analogous to that between a sickness fund and its insured. As has been noted in paragraph 33 of the present judgment, those services do not benefit persons who are likely to be clearly identified, but all potential viewers. In addition, the amount of the subsidy in question is determined by reference to a flat rate per programme hour, and without taking into account the identity or the number of users of the service provided.

38 Lastly, no other conclusion can be drawn from Article 25(c) of the VAT Directive. Admittedly, pursuant to that provision, a supply of services may consist, inter alia, in the performance of services in pursuance of an order made by or in the name of a public authority or in pursuance of the law. However, as the Advocate General observed in points 35 and 36 of his Opinion, that provision, which merely states that a supply of services 'may' take such a form, cannot serve as a basis for subjecting to VAT supplies of services which are not carried out for consideration within the meaning of Article 2(1)(c) of that directive.

39 In the light of all of the foregoing considerations, the answer to the first question referred is that Article 2(1)(c) of the VAT Directive must be interpreted as meaning that the activity of a public national television provider, consisting in the supply of audiovisual media services to viewers, which is financed by the State in the form of subsidies, and for which no fees for the broadcasting are payable by the viewers, does not constitute a service supplied for consideration within the meaning of that provision.

The second question

40 The second question, which relates to the interpretation of Article 132(1)(q) of the VAT Directive, concerns the case where the activity referred to in the first question must be classified as a supply of services for consideration, within the meaning of Article 2(1)(c) of that directive, and seeks, in essence, to ascertain whether such a supply is exempt.

41 First, it follows from the answer to the first question that such an activity does not come under the concept of a 'supply of services for consideration' within the meaning of Article 2(1)(c) of that directive, with the result that it does not constitute a taxable transaction within the meaning of that directive.

42 Second, it should be recalled that Article 132(1)(q) of the VAT Directive, which provides an exemption for 'activities of public radio and television bodies other than those of a commercial nature', is applicable only on the condition that those activities should be 'subject to VAT' within the meaning of Article 2 of that directive (see, to that effect, judgment of 22 June 2016, *Český rozhlas*, C-11/15, EU:C:2016:470, paragraph 32).

43 In those circumstances, there is no need to answer the second question.

The third and fourth questions

44 As a preliminary point, it should be observed that it is apparent from the information in the documents before the Court that the third and fourth questions, which relate to the right to input tax deduction, concern the case where the activity of a public national television provider, consisting in the supply of audiovisual media services to viewers, which is financed by the State in the form of subsidies, and for which no fees for the broadcasting are payable by the viewers, must be classified as a service supplied for consideration and, therefore, as a taxable transaction within the meaning of Article 2(1)(c) of the VAT Directive. The referring court thus seeks clarification regarding the scope of the right to input tax deduction paid by a taxable person carrying out both taxable and exempt transactions.

45 It is apparent from the answer to the first question that that activity does not constitute a service supplied for consideration within the meaning of that provision.

46 However, it should be observed that, according to settled case-law, in the procedure laid down by Article 267 TFEU providing for cooperation between national courts and the Court of Justice, it is for the latter to provide the national court with an answer which will be of use to it and enable it to determine the case before it. To that end, the Court may have to reformulate the questions referred to it (judgments of 5 March 2020, *X (VAT exemption for telephone consultations)*, C-48/19, EU:C:2020:169, paragraph 35, and of 25 November 2020, *SABAM*, C-372/19, EU:C:2020:959, paragraph 20 and the case-law cited).

47 In those circumstances, and in order to provide the referring court with a useful and complete answer, it is necessary to reformulate the third and fourth questions, which it is appropriate to examine together, as meaning that, by those questions, the referring court seeks, in essence, to ascertain whether Article 168 of the VAT Directive must be interpreted as meaning that the public national television provider is entitled to deduct, in whole or in part, input tax paid for purchases of goods and services used for the purposes of its activities which give rise to the right of deduction and its activities which do not fall within the scope of VAT.

48 In that regard, it must be observed that, according to settled case-law of the Court, the right of taxable persons to deduct from the VAT which they are liable to pay the VAT due or paid on goods purchased and services received by them as inputs is a fundamental principle inherent in the common system of VAT established by EU legislation. As the Court has repeatedly held, the right of deduction is an integral part of the VAT scheme and in principle may not be limited (see, to that effect, judgments of 15 September 2016, *Senatex*, C-518/14, EU:C:2016:691, paragraphs 26 and 37 and the case-law cited, and of 18 March 2021, *A. (Exercise of the right of deduction)*, C-895/19, EU:C:2021:216, paragraph 32).

49 The rules governing deduction introduced by the VAT Directive are meant to relieve the trader entirely of the burden of the VAT due or paid in the course of all his or her economic activities. The common system of VAT consequently ensures complete neutrality of taxation of all economic activities, whatever the purpose or results of those activities, provided that they are themselves subject to VAT (judgments of 10 November 2016, *Baštová*, C-432/15, EU:C:2016:855, paragraph 42 and the case-law cited, and of 18 March 2021, *A. (Exercise of the right of deduction)*, C-895/19, EU:C:2021:216, paragraph 33).

50 In that regard, in the first place, under Article 168 of the VAT Directive, in order to have a right of deduction, it is necessary, first, that the person concerned be a 'taxable person', within the meaning of that directive, and, second, that the goods or services relied on to confer entitlement to that right be used by the taxable person for the purposes of his or her taxed output transactions, and that, as inputs, those goods or services be supplied by another taxable person (judgments of 5 July 2018, *Marle Participations*, C-320/17, EU:C:2018:537, paragraph 26 and the case-law cited, and of 3 July 2019, *The Chancellor, Masters and Scholars of the University of Cambridge*, C-316/18, EU:C:2019:559, paragraph 23).

51 On the other hand, where goods or services acquired by a taxable person are used for purposes of transactions that are exempt or do not fall within the scope of VAT, no output tax can be collected or input tax deducted (see, to that effect, judgments of 14 September 2017, *Iberdrola Inmobiliaria Real Estate Investments*, C-132/16, EU:C:2017:683, paragraph 30, and of 3 July 2019, *The Chancellor, Masters and Scholars of the University of Cambridge*, C-316/18, EU:C:2019:559, paragraph 24).

52 It follows from that case-law that it is the use of the goods and services acquired as inputs for the purposes of taxable transactions that justifies the input tax deduction. In other words, the way in which such purchases are financed, whether by means of revenue derived from economic activities or subsidies received from the State budget, is irrelevant for the purposes of determining the right of deduction.

53 In the second place, in so far as a taxable person uses the goods and services purchased as inputs both for transactions giving rise to the right to deduct and for transactions which do not fall within the scope of VAT, it should also be added that it follows from Articles 173 to 175 of the VAT Directive that the calculation of a deductible proportion to determine the amount of deductible VAT is, in principle, reserved solely to goods and services used by a taxable person to carry out both economic transactions which give rise to a right to deduct and those which do not (see, to that effect, judgments of 14 December 2016, *Mercedes Benz Italia*, C-378/15, EU:C:2016:950, paragraph 34, and of 25 July 2018, *Gmina Ryjewo*, C-140/17, EU:C:2018:595, paragraph 57), such as exempt transactions (see, to that effect, judgment of 29 April 2004, *EDM*, C-77/01, EU:C:2004:243, paragraph 73).

54 However, to the extent that input VAT relating to expenditure incurred by a taxpayer is connected with activities which, in view of their non-economic nature, do not fall within the scope of the VAT Directive, it cannot give rise to a right to deduct (see, to that effect, judgment of 13 March 2008, *Securenta*, C-437/06, EU:C:2008:166, paragraph 30). Such activities must be excluded from the calculation of the deductible proportion referred to in Articles 173 to 175 of the VAT Directive (see, to that effect, judgment of 29 April 2004, *EDM*, C-77/01, EU:C:2004:243, paragraph 54 and the case-law cited).

55 In that regard, it is apparent from the Court's case-law that the determination of the methods and criteria for apportioning input VAT between economic and non-economic activities lies in the discretion of the Member States. When exercising that discretion, the Member States must have regard to the aims and broad logic of that directive and must, on that basis, provide for a method of calculation which objectively reflects the part of the input expenditure actually to be attributed, respectively, to those two types of activity (judgments of 6 September 2012, *Portugal Telecom*, C-496/11, EU:C:2012:557, paragraph 42, and of 25 July 2018, *Gmina Ryjewo*, C-140/17, EU:C:2018:595, paragraph 58), in order to ensure that deduction is made only for that part of the VAT proportional to the amount relating to transactions giving rise to the right to deduct (see, to that effect, judgments of 13 March 2008, *Securenta*, C-437/06, EU:C:2008:166, paragraph 37, and of 12 November 2020, *Sonaecom*, C-42/19, EU:C:2020:913, paragraph 47).

56 When exercising that discretion, the Member States have the right to apply any appropriate formula, such as a transaction formula, without being required to restrict themselves to only one particular method (see, to that effect, judgment of 13 March 2008, *Securenta*, C-437/06, EU:C:2008:166, paragraph 38).

57 In the light of all the foregoing considerations, the answer to the third and fourth questions referred is that Article 168 of the VAT Directive must be interpreted as meaning that the national public television provider is entitled to deduct input VAT for purchases of goods and services used for the purposes of its activities which give rise to the right to deduct and that it is not entitled to deduct input VAT for purchases of goods and services used for the purposes of its activities which do not fall within the scope of VAT. It is for the Member States to determine the methods and criteria for apportioning input VAT between taxable transactions and transactions not falling within the scope of VAT, taking into account the aims and broad logic of that directive in compliance with the principle of proportionality.

Costs

58 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Fourth Chamber) hereby rules:

1. **Article 2(1)(c) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as meaning that the activity of a public national television provider, consisting in the supply of audiovisual media services to viewers, which is financed by the State in the form of subsidies, and for which no fees for the broadcasting are payable by the viewers, does not constitute a service supplied for consideration within the meaning of that provision.**

2. **Article 168 of Directive 2006/112 must be interpreted as meaning that the national public television provider is entitled to deduct the input value added tax (VAT) for purchases of goods and services used for the purposes of its activities which give rise to the right to deduct and that it is not entitled to deduct input VAT for purchases of goods and services used for the purposes of its activities which do not fall within the scope of VAT. It is for the Member States to determine the methods and criteria for apportioning input**

VAT between taxable transactions and transactions not falling within the scope of VAT, taking into account the aims and broad logic of that directive in compliance with the principle of proportionality.

[Signatures]