Reports of Cases

JUDGMENT OF THE COURT (Fifth Chamber)

16 July 2015*

(Reference for a preliminary ruling — Taxation — Turnover tax — Scope — Exemption — Notion of 'insurance transactions' — Notion of 'supply of services' — Lump sum for a warranty covering breakdowns of a second-hand vehicle)

In Case C-584/13,

REQUEST for a preliminary ruling under Article 267 TFEU from the Cour de cassation (France), made by decision of 13 November 2013, received at the Court on 19 November 2013, in the proceedings

Directeur général des finances publiques

v

Mapfre asistencia compania internacional de seguros y reaseguros SA,

and

Mapfre warranty SpA

v

Directeur général des finances publiques,

THE COURT (Fifth Chamber),

composed of T. von Danwitz, President of the Chamber, C. Vajda, A. Rosas (Rapporteur), E. Juhász and D. Šváby, Judges,

Advocate General: M. Szpunar,

Registrar: V. Tourrès, Administrator,

having regard to the written procedure and further to the hearing on 12 November 2014,

after considering the observations submitted on behalf of:

— Mapfre asistencia compania internacional de seguros y reaseguros SA and Mapfre warranty SpA, by G. Hannotin, avocat,

— the French Government, by J.-S. Pilczer and D. Colas, acting as Agents,

* Language of the case: French.

— the European Commission, by C. Soulay and L. Lozano Palacios, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 4 February 2015,

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Articles 2 and 13(B)(a) 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 (OJ 1977 L 145, p. 1), as amended by Council Directive 91/680/EEC of 16 December 1991 (OJ 1991 L 376, p. 1) ('the Sixth Directive').

2 The request has been made in two sets of proceedings between, first, the Directeur général des finances publiques (Director General of Public Finances) and Mapfre asistencia compania internacional de seguros y reaseguros SA ('Mapfre asistencia'), a company incorporated under Spanish law, and, second, Mapfre warranty SpA ('Mapfre warranty'), a company incorporated under Italian law, and the Directeur général des finances publiques, concerning the taxation of the transactions carried out by those two companies.

Legal context

EU law

3 Article 2 of the Sixth Directive provides:

'The following shall be subject to value added tax ["VAT"]:

1. the supply of goods or services effected for consideration within the territory of the country by a taxable person acting as such;

2. the importation of goods.'

4 Under Article 13(B)(a) of the Sixth Directive:

'Without prejudice to other Community provisions, Member States shall exempt the following under conditions which they shall lay down for the purpose of ensuring the correct and straightforward application of the exemptions and of preventing any possible evasion, avoidance or abuse:

(a) insurance and reinsurance transactions, including related services performed by insurance brokers and insurance agents.'

5 Article 33(1) of the Sixth Directive provides:

'Without prejudice to other Community provisions, in particular those laid down in the Community provisions in force relating to the general arrangements for the holding, movement and monitoring of products subject to excise duty, this Directive shall not prevent a Member State from maintaining or introducing taxes on insurance contracts, taxes on betting and gambling, excise duties, stamp duties and, more generally, any taxes, duties or charges which cannot be characterised as turnover taxes, provided however that those taxes, duties or charges do not, in trade between Member States, give rise to formalities connected with the crossing of frontiers.'

French law

6 Article 256, I, of the code général des impôts (General Tax Code), in the version applicable to the disputes in the main proceedings ('the CGI'), provides:

'The supply of goods or services effected for consideration within the territory of the country by a taxable person acting as such shall be subject to [VAT].'

7 Article 261 C of the CGI provides:

'The following shall be exempt from [VAT]:

…

2 insurance and reinsurance transactions, including related services performed by insurance brokers and insurance agents.

…'

8 Article 991 of the CGI provides:

'Any insurance contract concluded with an insurance company or undertaking or with any other French or foreign insurer shall be subject, irrespective of the location or date on which it is or has been concluded, to a compulsory annual tax, through the payment of which any written document establishing the creation, amendment or termination by agreement of that insurance contract, and authenticated copies, extracts or copies that are issued, shall, regardless of where they are or have been drafted, be exempt from stamp duty and registered free of charge if required.

The tax shall be levied on the sums to be paid for the benefit of the insurer and any other ancillary payments which the latter may receive either directly or indirectly in respect of the insured party.'

9 Article 1001-5a of the CGI states that the rate of the special tax on insurance contracts is set at 18% for insurance covering the risks of all kinds relating to terrestrial motor vehicles.

10 It is also follows from Article 1001-6 of the CGI that the rate of the special tax on insurance contracts under general law is set at 9%.

The disputes in the main proceedings and the question referred

11 It appears from the order for reference that second-hand motor-vehicle dealers offered purchasers of those vehicles, through the services proposed by the company NSA Sage, which subsequently became Mapfre warranty, a warranty covering the repair of mechanical breakdowns affecting those vehicles.

12 Proceeding on the view that it was supplying a service, Mapfre warranty collected VAT. Mapfre asistencia, for its part, paid the tax on insurance contracts, at the standard rate of 9%, on the premiums paid by Mapfre warranty.

13 The tax authorities sent Mapfre warranty a proposed tax adjustment notice in which the services provided by it were classed as insurance transactions subject to the tax on insurance contracts provided for under Article 991 of the CGI, at the rate of 18% set for motor vehicle insurance by Article 1001-5a of the CGI.

14 As they were of the view, moreover, that Mapfre warranty had taken out, with Mapfre asistencia, insurance for account of whom it may concern for the benefit of the purchasers of vehicles, the purpose of which was to cover the risk of mechanical breakdowns, those tax authorities sent Mapfre asistencia a tax adjustment notice, in which they calculated the tax on insurance contracts at the rate of 18% on the sums paid by those purchasers.

15 Following the rejection of their complaint, those two companies brought actions, first before the Tribunal de grande instance de Lyon (Regional Court, Lyons) and then before the cour d'appel de Lyon (Court of Appeal, Lyons), seeking relief from those tax obligations.

16 The two companies claimed that the second-hand vehicle dealers were sub-contracting part of their after-sales service to Mapfre warranty and that the latter had insured its risk of financial loss with Mapfre asistencia.

17 By two judgments delivered on 22 September 2011, the cour d'appel de Lyon confirmed the two decisions of the tribunal de grande instance de Lyon of 31 March 2010, declaring, in the first, that the services provided by Mapfre warranty constituted insurance transactions which were subject to the tax on insurance contracts at the rate of 18%, and, in the second, that the tax on insurance contracts was payable by Mapfre asistencia at a rate of 9%.

18 It is clear from the pleas in law of the parties to the main proceedings annexed to the order for reference that the cour d'appel de Lyon stated, inter alia, that, where the purchaser of a second-hand vehicle decided to take out the additional warranty offered by the second-hand-vehicle dealer, he was supplied, in return for the additional payment required, with an application form contained in a warranty booklet bearing the letterhead of NSA Sage, which had become Mapfre warranty. According to that court, Mapfre warranty received the breakdown report from the approved garage to which the purchaser had taken the vehicle, checked that the warranty was valid and that the cost stated in the estimate was in line with the normal scale of charges and then authorised the repair or replacement of the defective part.

19 The cour d'appel de Lyon pointed out that it did not follow from any provision cited by the parties or from any other evidence adduced in the course of the proceedings that the purchaser might be entitled to demand that the dealer guarantee the service in the event of defects covered by the warranty, for example where the obligor designated in the contract might be insolvent. According to that court, the dealer cannot be considered to have sub-contracted the performance of an obligation that he was not required to fulfil. By contrast, a direct contractual link was established between the purchaser and Mapfre warranty when the warranty booklet was issued, since the purchaser could require Mapfre warranty, and it alone, to perform the promised action and to bear the cost. As it was concluded between the purchaser and an operator that was not a party to the sale, that contractual commitment was established for its own purpose and constituted an end in itself. In so far as, in return for payment of an agreed sum, Mapfre warranty undertook, in the event of the occurrence of a contingent claim affecting the property insured, to provide the insured person with the service agreed at the time at which the contract was concluded, that company was engaging in an insurance activity.

20 Furthermore, the cour d'appel de Lyon found that Mapfre warranty had taken out an insurance policy with Mapfre asistencia designed to cover the reimbursement of financial loss arising from a breakdown covered by a contract relating to vehicles purchased from a second-hand dealer and for which a warranty booklet had been issued. According to the cour d'appel de Lyon, that policy did not, however, create 'insurance for account' and did not cover the risks of all kinds relating to terrestrial motor vehicles referred to in Article 1001-5a of the CGI.

21 Mapfre warranty brought an appeal on a point of law before the referring court against the judgment of the cour d'appel de Lyon, which had categorised its services as insurance transactions, subject to the tax on insurance contracts at the rate of 18%.

22 The Directeur général des finances publiques also brought an appeal on a point of law before the referring court against the judgment of the cour d'appel de Lyon, which had held that the rate of the tax on insurance contracts for Mapfre asistencia was not 18%, as estimated by the tax authorities, but 9%.

23 Given the connection between those two appeals, the referring court decided to join them.

24 Facing uncertainty as to the interpretation of the notion of 'insurance transactions', which is not defined in the Sixth Directive, the Cour de cassation decided to stay the proceedings and to refer the following question to the Court of Justice for a preliminary ruling:

'Must Article 2 and Article 13(B)(a) of the Sixth Directive be interpreted as meaning that the service whereby an economic operator which is independent of a second-hand motor-vehicle dealer provides, in return for payment of a lump sum, a warranty covering mechanical breakdowns which may affect certain parts of the second-hand vehicle falls within the category of insurance transactions exempt from VAT or, on the contrary, as meaning that such a supply falls within the category of "supply of services"?'

Consideration of the question referred

25 By its question, the referring court asks, in essence, whether Article 13(B)(a) of the Sixth Directive must be interpreted as meaning that the supply of services whereby an economic operator which is independent of a second-hand motor-vehicle dealer provides, in return for payment of a lump sum, a warranty covering mechanical breakdowns which may affect certain parts of that vehicle constitutes an exempt insurance transaction within the meaning of that provision.

26 At the outset, it should be borne in mind that, according to settled case-law, the terms used to specify the exemptions in Article 13 of the Sixth Directive are to be interpreted strictly. However, the interpretation of those terms must be consistent with the objectives underlying those exemptions and must comply with the requirements of the principle of fiscal neutrality inherent in the common system of VAT. Accordingly, that requirement of strict interpretation does not mean that the terms used to specify the exemptions referred to in Article 13 must be construed in such a way as to deprive the exemptions of their intended effects (see, inter alia, judgment in *Zimmermann*, C-174/11, EU:C:2012:716, paragraph 22 and the case-law cited).

27 Moreover, transactions which are covered by the exemptions laid down in Article 13 of the Sixth Directive constitute independent concepts of EU law, in order to avoid divergences in the application of the VAT system from one Member State to another (see, to that effect, judgments in *CPP*, C-349/96, EU:C:1999:93, paragraph 15; in *Taksatorringen*, C-8/01, EU:C:2003:621, paragraph 37; in *Commission* v *Greece*, C-13/06, EU:C:2006:765, paragraph 9; and in *BGŻ Leasing*, C-224/11, EU:C:2013:15, paragraph 56).

28 With regard, more specifically, to the concept of 'insurance transactions' in Article 13(B)(a) of the Sixth Directive, which is not defined in that directive, the Court has repeatedly held that the essentials of an insurance transaction are, as generally understood, that the insurer undertakes, in return for prior payment of a premium, to provide the insured party, in the event of materialisation of the risk covered, with the service agreed when the contract was concluded (see, to that effect, judgments in *Taksatorringen*, C-8/01, EU:C:2003:621, paragraph 39; in *Commission* v *Greece*, C-13/06, EU:C:2006:765, paragraph 10; and in *BGŻ Leasing*, C-224/11, EU:C:2013:15, paragraph 58).

29 The Court has stated that an insurance transaction necessarily implies the existence of a contractual relationship between the provider of the insurance service and the person whose risks are covered by the insurance, that is to say, the insured party (see judgments in *Skandia*, C-240/99, EU:C:2001:140, paragraph 41; in *Taksatorringen*, C-8/01, EU:C:2003:621, paragraph 41; and in *BGŻ Leasing*, C-224/11, EU:C:2013:15, paragraph 58).

30 In addition, that concept of insurance transactions is in principle broad enough to include the provision of insurance cover by a taxable person who is not himself an insurer but who, in the context of a block policy, procures such cover for his customers by making use of the services provided by an insurer who assumes the risk insured (see, to that effect, judgments in *CPP*, C-349/96, EU:C:1999:93, paragraph 22, and in *BGŻ Leasing*, C-224/11, EU:C:2013:15, paragraph 59).

31 With regard to the examination of the present request for a preliminary ruling, it is appropriate to bear in mind that it follows from Article 94 of the Rules of Procedure of the Court and from settled case-law that, in order to lead to an interpretation of EU law that will be useful to the national court, the request for a preliminary ruling must, first, contain a summary of the subject-matter of the dispute in the main proceedings, and the relevant facts, as determined by the referring court, or at the very least, a statement of the facts on which the questions referred are based. It must, second, cover the content of the national provisions that may apply in the main proceedings and, if applicable, the relevant national case-law. Third, the referring court must set out the reasons which led it to question the interpretation or validity of certain provisions of EU law and the link which it establishes between those provisions and the national legislation applicable to the dispute in the main proceedings (see, inter alia, order in *Municipiul Piatra Neamț*, C-13/14, EU:C:2014:2000, paragraph 10 and the case-law cited).

32 The referring court has not, in the request for a preliminary ruling, in particular, provided factual evidence as to the nature of the provision of services at issue in the main proceedings, but has restricted itself to annexing to the order for reference the grounds of appeal raised before it, with the result that the Court is unable to determine, ultimately, whether a supply of services such as that at issue in the main proceedings does in fact constitute an exempt insurance transaction under Article 13(B)(a) of the Sixth Directive, for the purposes of the case-law cited in paragraphs 28 and 29 of the present judgment.

33 By reason of the spirit of cooperation in relations between the national courts and the Court of Justice in the context of the preliminary-ruling procedure, the lack of the necessary factual findings by the referring court does not inevitably render the request for a preliminary ruling inadmissible if, in spite of those failings, the Court, having regard to the information available from the file, considers that it is in a position to give a useful answer to the referring court (see, to that effect, judgment in *Azienda sanitaria locale n. 5 'Spezzino' and Others*, C-113/13, EU:C:2014:2440, paragraph 48).

34 With regard to a supply such as that at issue in the main proceedings, it is clear from the documents before the Court that Mapfre warranty undertakes, in return for prior payment of a lump sum, to cover the cost of the repairs to a second-hand vehicle in the event of a mechanical breakdown which may affect certain parts of that vehicle and which is defined in a 'warranty booklet' given to the purchaser of that vehicle.

35 However, Mapfre warranty and Mapfre asistencia deny the existence, in the cases in the main proceedings, of a contractual relationship between Mapfre warranty and the purchaser of the second-hand vehicle. Both companies state, in particular, that a contractual relationship exists only between Mapfre warranty and the dealer selling that second-hand vehicle. That dealer simply commissions Mapfre warranty to perform the obligations, which it, as the dealer, has towards the purchaser by virtue of statutory or contractual provisions. According to Mapfre warranty and Mapfre asistencia, the dealer selling the second-hand vehicle is also the debtor, in relation to Mapfre

warranty, owing the premium due for the warranty which Mapfre warranty provides. The dealer deducts that amount from the profit margin obtained, and it does so in order to increase the attractiveness of the second-hand vehicle.

36 In that regard, subject to determination by the referring court of the precise nature of the relationships between the various parties involved in the context of the supply at issue in the main proceedings, it is clear from the documents before the Court, first, that the second-hand vehicle dealer does not participate in the implementation of the warranty agreement. If there is a mechanical breakdown covered by the warranty, the purchaser of the second-hand vehicle at issue is not obliged to have that vehicle repaired in a garage belonging to that dealer or in one which the dealer had indicated to the purchaser. The garage which the purchaser of the vehicle uses to have that vehicle repaired must, for its part, contact Mapfre warranty directly so that Mapfre warranty may approve the estimate drawn up by that garage.

37 Second, even if, as Mapfre warranty and Mapfre asistencia submit, the lump sum creating entitlement to the warranty is included in the sale price of the second-hand vehicle, that amount is, ultimately, paid by the purchaser of that vehicle.

38 In any event, irrespective of whether a contract is concluded between the purchaser of the second-hand vehicle and Mapfre warranty, with the dealer selling that vehicle acting merely as an intermediary, whether it is the dealer which concludes the contract in its own name but on behalf of the purchaser, or, finally, whether the dealer transfers to the purchaser the rights arising from the contract which the dealer concluded in its own name and on its own behalf with Mapfre warranty, it is clear from, inter alia, the case-law cited in paragraphs 28 and 30 of the present judgment that the concept of ‘insurance transactions’, within the meaning of Article 13(B)(a) of the Sixth Directive, is broad enough to cover each of those situations.

39 All of the characteristic elements of an insurance transaction, such as those identified by the case-law cited in paragraph 28 of the present judgment, exist in each of those situations. Thus, the insurer, which in this case is Mapfre warranty, is an economic operator independent of the second-hand-vehicle dealer and the insured person is the purchaser of that vehicle. Furthermore, the risk consists of the need for the purchaser of the second-hand vehicle to pay for the repairs in the event of a mechanical breakdown covered by the warranty, the cost of which the insurer undertakes to cover. Finally, the premium consists of the lump sum which the purchaser of the second-hand vehicle pays, either in the purchase price of that vehicle or as a supplement.

40 Subject to determination by the referring court, the presence of those elements makes it possible for the conclusion to be drawn that there exists between the insurer and the insured person the legal relationship which is required by the Court’s case-law in order for a service to be regarded as an ‘insurance transaction’ within the meaning of Article 13(B)(a) of the Sixth Directive.

41 Furthermore, contrary to what Mapfre warranty and Mapfre asistencia essentially submit, categorisation of a service as an ‘insurance transaction’ within the meaning of Article 13(B)(a) of the Sixth Directive cannot depend on the manner in which the insurer manages the level of the risk which it undertakes to cover and calculates the exact amount of the premium.

42 In this regard, as the Advocate General has observed in point 28 of his Opinion and as is clear from the case-law cited in paragraph 28 of the present judgment, the essence of an ‘insurance transaction’, within the meaning of Article 13(B)(a) of the Sixth Directive, lies in the fact that the insured person is exempted from the risk of bearing financial loss, which is uncertain, but potentially significant, by the premium, payment of which for that person is certain but limited.

43 In the present case it appears to follow from the documents before the Court that the amount charged by Mapfre warranty in the form of a premium is not repaid to the purchaser of a second-hand vehicle in the event that the warranty period expires without a breakdown having occurred, or if the cost of the repairs is less than that premium. Similarly, in the event of breakdown costs exceeding the amount of the premium paid, the vehicle purchaser is not required to pay the amount exceeding that premium. Thus, the premiums charged by Mapfre warranty appear, subject to determination by the referring court, to constitute standard insurance premiums, the payment of which releases the insured person entirely from the risk covered. Mapfre warranty has also insured, with Mapfre asistencia, the risk of financial loss sustained by itself in that regard.

44 In that context, the method of calculating the premiums and of managing the repair costs is a matter for Mapfre warranty's internal organisation and cannot determine the categorisation which must be given to the services that it provides.

45 Finally, Mapfre warranty and Mapfre asistencia submit that, when the vehicle manufacturers or second-hand-vehicle dealers themselves offer their customers an additional warranty, those traders are regarded as offering after-sales services, subject to VAT, whereas they nevertheless provide a service similar to that offered by Mapfre warranty to purchasers of second-hand vehicles. Such services should, they argue, be treated identically.

46 It is important to note, first, that that line of argument is based on factual evidence, in particular the tax treatment of warranties provided by the dealer, which are not included in the order for reference, and, second, that the order for reference does not set out any such argument. As has been pointed out in paragraph 31 of the present judgment, it follows from Article 94 of its Rules of Procedure that, in the absence of such evidence, the Court cannot respond to such an argument.

47 It follows from the foregoing that a service such as that at issue in the main proceedings appears, subject to determination by the referring court, to be capable of coming within the concept of an 'insurance transaction' within the meaning of Article 13(B)(a) of the Sixth Directive.

48 It should, however, be noted that Mapfre warranty and Mapfre asistencia also submit that, if such a service is to be categorised as an insurance transaction, it is none the less subject to VAT because it is linked inseparably to the sale of the second-hand vehicle and should, therefore, be subject to the same tax treatment as that sale.

49 In this regard, it should be recalled that, for VAT purposes, every transaction must normally be regarded as distinct and independent, as follows from Article 2(1) of the Sixth Directive (see, to that effect, judgments in *Aktiebolaget NN*, C-111/05, EU:C:2007:195, paragraph 22; in *Field Fisher Waterhouse*, C-392/11, EU:C:2012:597, paragraph 14; and in *BGŻ Leasing*, C-224/11, EU:C:2013:15, paragraph 29).

50 Nevertheless, it is clear from the case-law of the Court that, in certain circumstances, several formally distinct services, which could be supplied separately and thus give rise, separately, to taxation or exemption, must be considered to constitute a single transaction when they are not independent. There is a single supply where, inter alia, two or more elements or acts supplied by the taxable person to the customer are so closely linked that they form, objectively, a single, indivisible economic supply, which it would be artificial to split. Such is also the case where one or more elements are to be regarded as constituting the principal service, whilst one or more elements are to be regarded, by contrast, as ancillary services which share the tax treatment of the principal service (see judgment in *BGŻ Leasing*, C-224/11, EU:C:2013:15, paragraph 30 and the case-law cited).

51 With regard to insurance transactions, the Court has already held that every insurance transaction has, by its nature, a link with the item which it covers. None the less, such a link is not sufficient in itself to determine whether or not there is a single complex transaction for VAT purposes. If any insurance

transaction were subject to VAT because the services relating to the item which it covers were subject to VAT, the very aim of Article 13(B)(a) of the Sixth Directive, that is to say, the exemption of insurance transactions, would be called into question (see, to that effect, judgment in *BGŻ Leasing*, C-224/11, EU:C:2013:15, paragraph 36).

52 Under the rule mentioned in paragraph 49 of the present judgment, according to which each transaction must normally be regarded as distinct and independent, it must be observed that, as a general rule, the sale of a second-hand vehicle, and the supply, by an independent economic operator to the dealer selling that second-hand vehicle, of a warranty relating to the mechanical breakdown which may affect certain parts of that vehicle cannot be regarded as being so closely linked that they form a single transaction. The fact of assessing such supplies separately cannot constitute in itself an artificial splitting of a single economic transaction, capable of distorting the functioning of the VAT system.

53 That being the case, it is appropriate to examine whether there are reasons arising from the facts at issue in the main proceedings which would suggest that the elements concerned constitute a single transaction (see, to that effect, judgment in *BGŻ Leasing*, C-224/11, EU:C:2013:15, paragraph 40).

54 From that perspective, it must be recalled first of all that, according to the case-law of the Court on the definition of a single transaction, as set out in paragraph 50 of the present judgment, a service is regarded as ancillary to a principal service in particular where it does not constitute for the customers an aim in itself, but a means of better enjoying the principal service (see judgment in *BGŻ Leasing*, C-224/11, EU:C:2013:15, paragraph 41).

55 Although it is true that, by virtue of a warranty such as that at issue in the main proceedings, the risk of financial loss faced by the purchaser of a second-hand vehicle is reduced in comparison with the risk incurred in a situation in which there is no such warranty, the fact none the less remains that that circumstance flows from the very nature of the warranty. That circumstance, on its own, does not mean that it is appropriate to take the view that such a service is ancillary to the sale of the second-hand vehicle.

56 As appears to follow from the documents submitted to the Court, the warranty at issue in the main proceedings is provided to the purchaser of a second-hand vehicle by a trader which is independent of the dealer which sold that second-hand vehicle and is not party to the sale, with the result that that warranty cannot, subject to determination by the referring court, be considered to be a warranty supplied by the dealer. In addition, the purchaser of a second-hand vehicle can purchase that vehicle without taking out that warranty and also has the option, without going through the dealer of that vehicle, to enter into a warranty agreement with a company other than Mapfre warranty. Finally, it appears from the warranty booklet produced before the Court by the French Government at the hearing that Mapfre warranty reserves, in certain circumstances, the right to terminate the warranty agreement without such termination appearing to affect the contract for the sale of the vehicle.

57 In those circumstances, and subject to determination by the referring court, a warranty such as that at issue in the main proceedings does not appear to be so closely linked to the sale of the second-hand vehicle that those two transactions, provided, moreover, by two different suppliers, constitute an indivisible economic supply which it would be artificial to split. Consequently, they must, in principle, be considered to be distinct and independent transactions for VAT purposes.

58 In view of all of the foregoing, the answer to the question referred is that Article 13(B)(a) of the Sixth Directive must be interpreted as meaning that the supply of services whereby an economic operator which is independent of a second-hand motor-vehicle dealer provides, in return for payment of a lump sum, a warranty covering mechanical breakdowns which may affect certain parts of that vehicle constitutes an exempt insurance transaction within the meaning of that provision. It is for the referring court to determine whether, in the light of circumstances such as those of the cases in the

main proceedings, the supply of services at issue in the main proceedings is such a supply. The provision of such a supply and the sale of the second-hand vehicle must, in principle, be considered to be distinct and independent supplies, to be treated separately from the point of view of VAT. It is for the referring court to determine whether, having regard to the specific circumstances of the cases in the main proceedings, the sale of a second-hand vehicle and the warranty provided by an independent economic operator to the dealer selling that second-hand vehicle covering mechanical breakdowns which may affect certain parts of that vehicle are so interconnected that they must be regarded as constituting a single transaction or whether, on the contrary, they are independent transactions.

Costs

59 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 (Fifth Chamber) hereby rules:

Article 13(B)(a) 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 91/680/EEC of 16 December 1991, must be interpreted as meaning that the supply of services whereby an economic operator which is independent of a second-hand motor-vehicle dealer provides, in return for payment of a lump sum, a warranty covering mechanical breakdowns which may affect certain parts of that vehicle constitutes an exempt insurance transaction within the meaning of that provision. It is for the referring court to determine whether, in the light of circumstances such as those of the cases in the main proceedings, the supply of services at issue in the main proceedings is such a supply. The provision of such a supply and the sale of the second-hand vehicle must, in principle, be considered to be distinct and independent supplies, to be treated separately from the point of view of VAT. It is for the referring court to determine whether, having regard to the specific circumstances of the cases in the main proceedings, the sale of a second-hand vehicle and the warranty provided by an independent economic operator to the dealer selling that second-hand vehicle covering mechanical breakdowns which may affect certain parts of that vehicle are so interconnected that they must be regarded as constituting a single transaction or whether, on the contrary, they are independent transactions.

[Signatures]