EUROPEAN COMMISSION
DIRECTORATE-GENERAL
TAXATION AND CUSTOMS UNION
Indirect Taxation and Tax administration
Value added tax

taxud.c.1(2024)2145677 – EN

Brussels, 11 March 2024

VALUE ADDED TAX COMMITTEE
(ARTICLE 398 OF DIRECTIVE 2006/112/EC)
WORKING PAPER NO 1082

QUESTION
CONCERNING THE APPLICATION OF EU VAT PROVISIONS

ORIGIN:	**Slovakia**
REFERENCES:	**Articles 2, 9 and 13**
SUBJECT:	**Activities carried out by bodies governed by public law**

1. INTRODUCTION

In their submission to the VAT Committee as annexed[1], the Slovak authorities raised several questions concerning the application of the VAT Directive[2] - Article 2(1), Article 9(1) and Article 13(1) - as far as the activities carried out by 'public bodies'[3] are concerned.

2. SUBJECT MATTER

The questions raised by the Slovak authorities concern the interpretation of the terms 'economic activity', 'activities or transactions in which they engage as public authorities' and 'significant distortions of competition' in relation to public bodies.

2.1. The VAT Directive

Article 2(1)

1. The following transactions shall be subject to VAT:

(a) the supply of goods for consideration within the territory of a Member State by a taxable person acting as such;

...

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

…

Article 9(1)

1. 'Taxable person' shall mean any person who, independently, carries out in any place any economic activity, whatever the purpose or results of that activity.

   Any activity of producers, traders or persons supplying services, including mining and agricultural activities and activities of the professions, shall be regarded as 'economic activity'. The exploitation of tangible or intangible property for the purposes of obtaining income therefrom on a continuing basis shall in particular be regarded as an economic activity.

Article 13

1. States, regional and local government authorities and other bodies governed by public law shall not be regarded as taxable persons in respect of the activities or transactions in which they engage as public authorities, even where they collect dues, fees, contributions or payments in connection with those activities or transactions.

---

1 See Annex I.

2 Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).

3 For the purposes of this analysis, the notion of 'public bodies' shall refer to States, regional and local government authorities and other bodies governed by public law.

However, when they engage in such activities or transactions, they shall be regarded as taxable persons in respect of those activities or transactions where their treatment as non-taxable persons would lead to significant distortions of competition.

In any event, bodies governed by public law shall be regarded as taxable persons in respect of the activities listed in Annex I, provided that those activities are not carried out on such a small scale as to be negligible.

2. Member States may regard activities, exempt under Articles 132, 135, 136 and 371, Articles 374 to 377, Article 378(2), Article 379(2) or Articles 380 to 390b, engaged in by bodies governed by public law as activities in which those bodies engage as public authorities.

Article 73

In respect of the supply of goods or services, other than as referred to in Articles 74 to 77, the taxable amount shall include everything which constitutes consideration obtained or to be obtained by the supplier, in return for the supply, from the customer or a third party, including subsidies directly linked to the price of the supply.

Article 168

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;

…

Article 168a

1. In the case of immovable property forming part of the business assets of a taxable person and used both for purposes of the taxable person's business and for his private use or that of his staff, or, more generally, for purposes other than those of his business, VAT on expenditure related to this property shall be deductible in accordance with the principles set out in Articles 167, 168, 169 and 173 only up to the proportion of the property's use for purposes of the taxable person's business.

2.2. Past VAT Committee discussions

Over the last decades, the VAT Committee has on several occasions discussed the VAT treatment applicable to the activities performed by public bodies.

Discussions began with the VAT treatment of public subsidies. In **1985**, a majority of Member States in the Committee agreed with the interpretation of Article 11(A)(1)(a) of the Sixth VAT Directive[4] proposed by the Commission, namely, that a subsidy was

[4] Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes - Common system of value added tax: uniform basis of assessment (OJ L 145, 13.6.1977, p. 1).

taxable only if three conditions were met: (i) it constituted the consideration (or part of the consideration); (ii) it was paid to the supplier; (iii) it was paid by a third party[5]. In **1990**, the majority view of the VAT Committee was that financial transfers from the general budget of a body governed by public law to its sector or one of its sectors subject to VAT did not constitute price-linked subsidies. Such transfers were therefore not taxable under Article 11(A)(1)(a) but could be included in the denominator for the purposes of calculating the deductible proportion[6].

More focused issues on the activities of public bodies were first raised by Belgium in **2010**. The first question concerned the interpretation of the term '*economic activity*' within the meaning of Article 9 of the VAT Directive[7] in the light of two judgments of the Court of Justice of the European Union (CJEU)[8]. It questioned whether one could reach the conclusion that activities of public bodies whose regular income comes mainly from public funding do not constitute economic activities. This discussion led in 2012 to the guidelines[9], where it was agreed that '*a supply of services shall only be subject to VAT if there is a direct link between the supply of goods or services provided and the consideration received*'. To address the issues raised in the two judgments, the VAT Committee was of the almost unanimous view that (1) for such a condition to be fulfilled, it does not require that the consideration reflects the market value of the supply, nor should it have to cover the costs of making the supply; (2) such a condition does not necessarily mean that an activity which is mainly but not exclusively financed by general subsidies not closely linked to the supplies carried out shall always be regarded as being outside the scope of VAT.

The second issue raised by Belgium related to the rules applicable to public bodies where Member States are authorised to consider certain exempt activities engaged in by public bodies as activities in which they engage '*as a public authority*' pursuant to Article 13(2) of the same Directive[10]. The Commission services noted that this provision gives an option to Member States to treat such (exempt) activities as activities in which public bodies engage pursuant to Article 13(1) with the consequence that these activities are considered as out of scope of the VAT Directive.

In **2013**, the Commission raised a similar matter within the VAT Committee concerning the activities carried out by international bodies involved in economic activities[11]. The focus was on the status of international bodies and whether these could be regarded as public bodies which could see them treated as non-taxable persons. This question resulted in guidelines[12], where it was agreed that 'the concept of a body governed by public law […] shall also include a body set up by an international agreement or convention or by an

5 Guidelines resulting from the 18th meeting of 8-9 March 1985, XV/199/85 (p. 40).
6 As provided for by the second indent of the first subparagraph of Article 19(1) of the VAT Directive. For more details, see Working paper No 129 and Guidelines resulting from the 28th meeting of 9-10 July 1990 XXI/1334/90 (p. 57).
7 Working paper No 718.
8 CJEU, judgment of 29 October 2009 in *Commission v Finland*, C-246/08, EU:C:2009:671, and judgment of 6 October 2009 in *SPÖ Landesorganisation Kärnten*, C-267/08, EU:C:2009:619.
9 Guidelines resulting from the 96th meeting of 26 March 2012, Document C – taxud.c.1(2013)1579242 (p. 164).
10 Working paper No 719.
11 Working paper No 754.
12 Guidelines resulting from the 98th meeting of 18 March 2013, Document C – taxud.c.1(2013)2573830 – 769 (p. 172).

existing international body, provided that the body which is set up is governed by public international law'. It was also agreed that such a body […] shall be regarded as acting as a public authority within the meaning of Article 13 of the VAT Directive and could also be regarded as a non-taxable person under specific conditions.

2.3. Settled case law[13]

The activities carried out by public bodies have given rise to considerable case-law. From the CJEU jurisprudence, a series of criteria have emerged (see below sections 2.3.1 to 2.3.6).

2.3.1. Supply of services for consideration

Repeatedly, the CJEU has reiterated that the concept of supply of services effected for consideration within the meaning of Article 2(1) of the VAT Directive requires the existence of a **direct link** between the services provided and the consideration received[14].

Such a direct link is established if there is a legal relationship between the provider of the services and the recipient pursuant to which there is reciprocal performance, if the value of those services can be expressed in monetary terms[15] and the remuneration received by the provider of the service constitutes the value actually given in return for the service supplied to the recipient[16].

In 3 specific cases related to the activities of public bodies, the CJEU clarified that the decisive element to define a supply for consideration is not the percentage of the costs covered by the renumeration but still the notion of **sufficiently direct link**.

In *Commission v Finland*, the CJEU ruled that there was no sufficiently direct link between the legal aid services provided by public offices and the payment to be made by the recipients: the amount of part payment depends upon the recipient's income and assets. The more modest the recipient's income and assets, the less strong the link with that value will be. Thus, it is not, for example, the number of hours worked by the public offices, or the complexity of the case concerned which determines the portion of the fees for which the recipient remains responsible.

In *Gemeente Borsele*[17], the CJEU ruled that there was no sufficiently direct link between the service of transport for school children and the users: only one third of the users paid

[13] Annex II includes an overview of the main relevant CJEU judgments.

[14] See *inter alia*, CJEU, judgments of 8 March 1988, *Apple and Fear Development Council*, C-102/86, EU:C:1988:120, paragraph 12; of 3 March 1994, *Tolsma*, C-16/93, EU:C:1994:80, paragraph 13; of 16 October 1997, *Julius Fillibeck Söhne*, C-258/95, EU:C:1997:491, paragraph 12; of 29 October 2009, *Commission v Finland*, C-246/08, paragraph 45; and of 27 October 2011, *GFKL Financial Services*, C-93/10, EU:C:2011:700, paragraph 19.

[15] See CJEU, judgments of 23 November 1988, *Naturally Yours Cosmetics Limited*, C-230/87, EU:C:1988:508, paragraphs 11, 12 and 16; and of 2 June 1994, *Empire Stores*, C-33/93, EU:C:1994:225, paragraph 12.

[16] See, *inter alia*, *Tolsma*, paragraph 14; CJEU, judgments of 5 June 1997, *Sparekassernes Datacenter (SDC)*, C-2/95, paragraph 45; of 26 June 2003, *MKG-Kraftfahrzeuge-Factoring*, C-305/01, paragraph 47; *Commission v Finland*, paragraph 44; *GFKL Financial Services*, paragraph 18. See also, judgment of 15 April 2021, *Administration de l'Enregistrement, des Domaines et de la TVA*, C-846/19, paragraph 25.

[17] CJEU, judgment of 12 May 2016, *Gemeente Borsele*, C-520/14, EU:C:2016:334.

for the transport, the contribution did not relate to the distance from the school for each user and also took into account of the parents' ability to contribute (combined adjusted income) and finally, the conditions under which the service was provided was different than the normal passenger transport[18].

In *Gmina O*[19], the CJEU reiterated that the fact that the price paid for those economic transactions is higher or lower than the cost price, and, therefore, higher or lower than the open market value, is irrelevant for the purpose of establishing whether it was a transaction for consideration, since that circumstance is not such as to affect the direct link between the transactions supplied and the consideration received or to be received.

Lastly, in *Gemeinde A.*[20], the CJEU ruled that Article 2(1)(c) of the VAT Directive must be interpreted as meaning that the provision of spa facilities by a municipality does not constitute a 'supply of services for consideration' where, on the basis of municipal by-laws, that municipality imposes a spa tax of a certain amount per day's stay on visitors staying in the municipality, when the obligation to pay that tax is linked not to the use of those facilities but to the stay in the municipal territory and those facilities are freely and gratuitously accessible to everyone.

2.3.2 Economic activity

It must be pointed out that, although Article 9 of the VAT Directive gives a very wide scope to VAT, only **activities of an economic nature** are covered by that provision[21].

An analysis of the definitions of 'taxable person' and 'economic activities' shows that the scope of the term 'economic activities' is very wide and objective in character, in the sense that the activity is considered per se and **without regard to its purpose or results**[22].

The definition of what is a taxable person focuses on the **independence in the pursuit of an economic activity** to the effect that all persons who, in an objective manner, satisfy the criteria set out in that provision, must be regarded as being taxable persons for the purposes of VAT[23].

---

[18] Since the municipality of Borsele, as the Advocate General observed in point 64 of her Opinion, does not offer services on the general passenger transport market, but rather appears to be a beneficiary and final consumer of transport services which it acquires from transport undertakings with which it deals and which it makes available to parents of pupils as part of its public service activities.

[19] CJEU, judgment of 30 March 2023, *Gmina O.*, C-612/21, EU:C:2023:279.

[20] CJEU, judgment of 13 July 2023, *Gemeinde A.*, C-344/22, EU:C:2023:580.

[21] See, to that effect, CJEU, judgments of 11 July 1996, *Régie dauphinoise*, C-306/94, EU:C:1996:290, paragraph 15; of 29 April 2004, *EDM*, C-77/01, EU:C:2004:243, paragraph 47; of 26 May 2005, *Kretztechnik*, C-465/03, EU:C:2005:320, paragraph 18; of 21 February 2006, *University of Huddersfield*, C-223/03, EU:C:2006:124, paragraph 47 (and the case-law cited); of 26 June 2007, *T-Mobile Austria and Others*, C-284/04, EU:C:2007:381, paragraph 48; and of 16 September 2008, *Isle of Wight Council and Others*, C-288/07, EU:C:2008:505, paragraphs 25 to 28 (and the case law cited) and paragraph 38.

[22] See, *inter alia*, CJEU, judgments of 26 March 1987, *Commission v Netherlands*, C-235/85, EU:C:1987:161, paragraph 8; of 12 September 2000, *Commission v Ireland*, C-385/97, paragraph 29; *University of Huddersfield*, paragraph 47 (and the case-law cited).

[23] CJEU, judgment of 13 June 2019, *IO (Value added tax (VAT) – Activities of a member of a supervisory board)*, C-420/18, EU:C:2019:490, paragraph 21.

In *Gmina Wrocław* [24], the CJEU examined whether municipal budgetary entities **linked** to municipalities carried out **independently** an economic activity and established that it is necessary to ascertain, whether, in the pursuit of those activities, it is in an employer-employee relationship[25] vis-à-vis the municipality to which it is linked[26]. It should be clarified, as stated in point 44 of the Advocate General's Opinion[27], that the same criteria for assessing the condition of independence in the pursuit of economic activities may apply to public and private persons. As the budgetary entities carried out the economic activities entrusted to them in the name and on behalf of the municipality and did not bear liability for the damage caused by those activities, which was borne solely by the municipality, the CJEU ruled that the entities could not be regarded taxable persons in so far as they did not satisfy the criterion of independence but were instead considered **one and the same taxable person** within the meaning of Article 9(1) of the VAT Directive.

The criteria relating to **the permanent nature of the activity and the income which is obtained from it on a continuing basis** have been treated by the case-law[28] as applying not only to the exploitation of property, but to all the activities referred to in Article 9(1) of the VAT Directive. An activity is thus, generally, categorised as economic where it is permanent and carried out in return for remuneration which is received by the person carrying out the activity.

In *SPÖ Landesorganisation Kärnten*, the CJEU ruled that external advertising activities carried out by the section of a Member State's political party (SPÖ) are not to be regarded as an economic activity. The activity consisted in the development of informed political opinion with a view to participation in the exercise of political power and SPÖ did not participate in any market. The only income obtained on a continuing basis came from public funding and the party members' contributions[29].

---

[24] CJEU, judgment of 29 September 2015, *Gmina Wrocław*, C-276/14, EU:C:2015:63.

[25] In that regard, as the Advocate General has observed in points 40 and 41 of his Opinion, in order to assess whether that employer-employee relationship exists, it is necessary to check whether the person concerned performs his activities in his own name, on his own behalf and under his own responsibility, and whether he bears the economic risk associated with carrying out those activities. In order to find that the activities at issue are independent, the Court has thus taken into account the complete absence of any employer-employee relationship between public authorities and operators who were not integrated into the public administration, as well as the fact that such operators acted on their own account and under their own responsibility, were free to arrange how they performed their work and themselves received the emoluments which made up their income. See also to that effect, *Commission v Netherlands* (C-235/85), paragraph 14; CJEU, judgments of 27 January 2000, *Heerma*, C-23/98, EU:C:2000:46, paragraph 18; and of 18 October 2007, *van der Steen*, C-355/06, EU:C:2007:615, paragraphs 21 to 25.

[26] See, to that effect, *Commission v Netherlands* (C-235/85), paragraph 14; *Ayuntamiento de Sevilla*, paragraph 10; CJEU, judgments of 23 March 2006, *FCE Bank.*, in case C-210/04, EU:C:2006:196, paragraphs 35 to 37; and of 12 November 2009, *Commission v Spain*, C-154/08, EU:C:2009:695, paragraphs 103 to 107.

[27] *Gmina Wrocław*.

[28] See, *inter alia*, *Commission v Netherlands* (C-235/85), paragraphs 9 and 15; *EDM*, paragraph 48; CJEU, judgment of 21 October 2004 *BBL*, C-8/03, EU:C:2004:650, paragraph 36; *SPÖ Landesorganisation Kärnten*, paragraph 20.

[29] As noted in Working paper No 718, that resulted in Guidelines from the 96th meeting of 26 March 2012, Document C – taxud.c.1(2013)1579242 (p. 164), the decision to consider that there is no economic activity was based on the fact that the relevant activities are typical activities of political parties aiming at developing political opinion and that the SPÖ carrying out these activities through the 'Landesorgansation' does not participate in any market. The latter argument indicates that the judgment first of all considers the special situation of political parties and one should be careful to draw general conclusions.

In *Gmina O*, the CJEU rather focused on the facts that the municipality at stake did not intend to provide renewable energy installation services on a regular basis and did not employ nor plan to employ workers, and that these services were supplied through an undertaking selected following a call for tenders and finally, the municipality remunerated the undertaking in question, for that same supply and installation, at market price. The CJEU ruled that the activity of the municipality does not constitute a supply of goods and services subject to VAT. It followed the same logic in *Gmina L*[30] that involved a municipality which arranged for asbestos removal for the benefit of its residents who own immovable property through an undertaking following a call for tenders.

2.3.3. Activities or transactions in which states, regional and local government authorities and other bodies governed by public law engage as public authorities

As the CJEU has held on numerous occasions[31], it is clear from the provision of Article 13(1), when examined in the light of the aims of the VAT Directive, that **two conditions must be fulfilled in order to derogate from the basic VAT principles: the activities must be carried out by a body governed by public law and they must be carried out by that body acting as a public authority.**

As regards the first condition, in *Commission v France c*[32], the CJEU held that the non-taxable status provided for in Article 4(5) of the Sixth Directive requires that the activities be carried out not only as a public authority but also by a body governed by public law.

As regards the latter condition, a definition of 'activities by a body acting as a public authority' cannot be based, as has been held by the CJEU[33], on the subject-matter or purpose of the activity engaged in by the public body since those factors have been taken into account by other provisions of the VAT Directive for other purposes[34]. It is clear from the settled case-law of the CJEU[35] that activities pursued as public authorities are those engaged in by public bodies **under the special legal regime applicable to them** and this does not include activities pursued by them under the same legal conditions as those that apply to private traders.

---

30 CJEU, judgment of 30 March 2023, *Gmina L*, C-616/21, EU:C:2023:280.

31 See, in particular, *Commission v Netherlands* (C-235/85), paragraph 21; *Ayuntamiento de Sevilla*, paragraph 18 (and the case-law cited); CJEU, judgment of 12 September 2000, *Commission v Ireland*, C-358/97, EU:C:2000:425, paragraph 37.

32 CJEU, judgment of 12 September 2000, *Commission v France*, C-276/97, EU:C:2000:424, paragraph 44.

33 CJEU, judgments of 17 October 1989, *Comune di Carpaneto Piacentino and Others I*, C-231/87 and 129/88, EU:C:1989:381, paragraph 13; and of 15 May 1990, *Comune di Carpaneto Piacentino and Others II*, C-4/89, EU:C:1990:204, paragraph 8.

34 The subject-matter or purpose of certain economic activities falling within the scope of VAT is a decisive factor, on the one hand, for the purpose of limiting the scope of the treatment of bodies subject to public law as non-taxable persons (third subparagraph of Article 13(1) of and Annex I to the VAT Directive) and, on the other, for that of determining the exemptions referred to in Title IX of the directive. Article 132 of that title of the VAT Directive provides, *inter alia*, for exemptions in favour of certain activities carried out by bodies governed by public law or by other bodies regarded as social in nature by the Member State concerned by reason of their activities being in the public interest.

35 See for example *Comune di Carpaneto Piacentino and Others I*, paragraph 16; *Comune di Carpaneto Piacentino and Others II*, paragraph 8; *Commission v France* (C-276/97), paragraph 8.

2.3.4. States, regional and local government authorities and other bodies governed by public law regarded as taxable persons in respect of those activities or transactions where their treatment as non-taxable persons would lead to significant distortions of competition

According to the CJEU case-law[36] on the interpretation of the second subparagraph of Article 13(1) of the VAT Directive, first, what is envisaged here is the situation in which public bodies **engage in activities which may also be engaged in, in competition with them, by private economic operators under a regime governed by private law or on the basis of administrative concessions**[37]. The aim is to ensure that those private operators are not placed at a disadvantage because they are taxed while those bodies are not[38] with a view to ensuring the neutrality of the tax[39].

Secondly, that limitation of the rule that bodies governed by public law acting as public authorities are treated as non-taxable persons for VAT purposes is only a conditional limitation. Its application involves **an assessment of economic circumstances**[40].

Thirdly, the significant distortions of competition that the treatment as non-taxable persons of public bodies acting as public authorities would lead to **must be evaluated by reference to the activity in question, as such, without that evaluation relating to any particular market, and by reference not only to actual competition, but also to potential competition, provided that the possibility of a private operator entering the relevant market is real and not purely hypothetical**[41]. The purely theoretical possibility[42] of a private operator entering the relevant market or the mere presence of private operators on a market[43], which is not borne out by any matter of fact, any objective evidence or any analysis of the market, cannot be assimilated to the existence of potential competition.

---

36 See, *inter alia*, CJEU, judgment of 19 January 2017, *National Roads Authority*, in case C-344/15, EU:C:2017:28, paragraphs 39 to 44.

37 See, to that effect, *Comune di Carpaneto Piacentino and Others I*, paragraph 22.

38 See, to that effect, CJEU, judgment of 25 March 2010, *Commission v Netherlands*, in case C-79/09, EU:C:2010:171, paragraph 90.

39 The principle of fiscal neutrality, a fundamental principle of the common system of VAT, precludes economic operators carrying on the same activities from being treated differently as far as the levying of VAT is concerned. See, CJEU, judgments of 7 September 1999, *Gregg*, C-216/97, EU:C:1999:390, paragraph 20; of 26 May 2005, *Kingscrest Associates and Montecello*, C-498/03, EU:C:2005:322, paragraph 41; of 21 February 2006, *Halifax amd Others*, C-255/02, EU:C:2006:121, paragraph 92; and of 8 June 2006, *Feuerbestattungsverein Halle*, C-430/04, EU:C:2006:374, paragraph 24.

40 See, to that effect, *Comune di Carpaneto Piacentino and Others I*, paragraph 32. It should be noted that the Court ruled that the Member States are required by the third paragraph of Article 189 of the Treaty to ensure that bodies governed by public law are treated as taxable persons where the contrary would lead to significant distortions of competition. On the other hand, they are not obliged to transpose that criterion literally into their national law or to lay down precise quantitative limits for treatment as non-taxable persons.

41 See, *inter alia*, *Commission v Netherlands* (C-79/09), paragraph 91 (and the case-law cited); CJEU, judgment of 29 October 2015, *Saudaçor*, C-174/14, EU:C:2015:733, paragraph 74.

42 *Isle of Wight Council and Others*, paragraph 64.

43 *National Roads Authority*, paragraph 44.

In *Isle of Wight Council and Others*, the CJEU ruled that:

- the significant distortions of competition, to which the treatment as non-taxable persons of bodies governed by public law acting as public authorities would lead, must be evaluated **by reference to the activity** in question, as such, **without such evaluation relating to any local market in particular**[44];

- the expression 'would lead to' is to be interpreted as encompassing **not only actual competition, but also potential competition, provided that the possibility of a private operator entering the relevant market is real, and not purely hypothetical;**

- the word 'significant' is to be understood as meaning that the actual or potential distortions of competition **must be more than negligible**.

Finally, the CJEU in *SALIX Grundstücks-Vermietungsgesellschaft*[45] clarified that bodies governed by public law are to be considered taxable persons in respect of activities or transactions in which they engage as public authorities not only where their treatment as non-taxable persons would lead to significant distortions of competition to the detriment of their private competitors, but also where it would lead to such distortions **to their own detriment.**

2.3.5. Status as taxable persons in respect of the activities listed in Annex I[46], unless carried out on such a small scale as to be negligible

In *Comune di Carpaneto Piacentino I*[47], the CJEU ruled that the third subparagraph of Article 13(1) of the VAT Directive should be interpreted as meaning that it does not require the Member States to transpose into their tax legislation the criterion of the non-negligible scale of activities as a condition for treating the activities listed in Annex I as taxable.

---

[44] Although it had introduced the notion of a given geographical area for the concept of distortions of competition, the CJEU in *Isle of Wight Council and Others*, paragraph 49, stressed that the argument that distortions of competition, within the meaning of the second subparagraph of Article 4(5) of the Sixth Directive, must be evaluated having regard to each of the local markets on which the local authorities offer off-street parking assumes a systematic re-evaluation, on the basis of often complex economic analyses, of the conditions of competition on a multitude of local markets, the determination of which may prove particularly difficult since the markets' demarcation does not necessarily coincide with the areas over which the local authorities exercise their powers. In addition, several local markets may exist within the territory of the same local authority. Such a situation is capable, consequently, of giving rise to numerous disputes following any change affecting the conditions of competition prevailing on a given local market.

[45] CJEU, judgment of 4 June 2009, *SALIX Grundstücks-Vermietungsgesellschaft*, C-102/08, EU:C:2009:345.

[46] (1) Telecommunications services; (2) supply of water, gas, electricity and thermal energy; (3) transport of goods; (4) port and airport services; (5) passenger transport; (6) supply of new goods manufactured for sale; (7) transactions in respect of agricultural products, carried out by agricultural intervention agencies pursuant to Regulations on the common organisation of the market in those products; (8) organisation of trade fairs and exhibitions; (9) warehousing; (10) activities of commercial publicity bodies; (11) activities of travel agents; (12) running of staff shops, cooperatives and industrial canteens and similar institutions; (13) activities carried out by radio and television bodies in so far as these are not exempt pursuant to Article 132(1)(q).

[47] *Comune di Carpaneto Piacentino and Others I*.

In *Fazenda Pública*[48], the CJEU repeated that this provision gives Member States the option of taking account of the **negligible scale of activities or transactions** engaged in by bodies governed by public law, in order to exclude them from being taxable persons for VAT, **solely with respect to the activities set out in Annex I** of the VAT Directive.

In *Isle of Wight Council and Others*[49], the CJEU noted that it is that undesirable result that the EU legislature sought to avoid by providing that the activities specifically listed in Annex I of the VAT Directive (telecommunications, the supply of water, gas, electricity and steam, the transport of goods, port and airport services and passenger transport, etc.) are, 'in any event', unless they are negligible, to be subject to VAT, even when they are carried on by public bodies acting as public authorities. In other words, the treatment of public bodies as non-taxable persons **in respect of those activities is, unless such activities are negligible, presumed to lead to distortions of competition**. It is thus clear that the treatment of those bodies as taxable persons results from the carrying-on, as such, of the activities listed in Annex I of the VAT Directive, irrespective of the question whether or not a particular body governed by public law faces **competition at the level of the local market on which it carries on those same activities**.

2.3.6. Activities exempt under Articles 132, 135, 136 and 371, Articles 374 to 377, Article 378(2), Article 379(2) or Articles 380 to 390b, regarded as engaged in by bodies governed by public law as activities in which those bodies engage as public authorities

The CJEU has interpreted the application of Article 13(2) of the VAT Directive only in relation to its interaction with Article 132[50].

The CJEU held in *Fazenda Pública*[51] that this provision must be interpreted as meaning that the absence of an exemption for the letting of spaces for the parking of vehicles does not prevent bodies governed by public law which carry out that activity from being treated as non-taxable persons for VAT in respect of it, where the conditions stated in the first and second subparagraphs of Article 13(1) of the VAT Directive are satisfied.

In *SALIX Grundstücks-Vermietungsgesellschaft*, the CJEU clarified that the Member States must lay down an express provision in order to be able to rely on the option provided for in Article 13(2) of the VAT Directive.

2.4 Questions put forward by the Slovak authorities

The Slovak authorities inquire on the application of the rules of the VAT Directive regarding the activities of public bodies as interpreted by the CJEU and in particular on

48 CJEU, judgment of 14 December, *Fazenda Pública*, C-446/98, EU:C:2000:691.

49 *Isle of Wight Council and Others*, paragraph 35.

50 See, CJEU, judgment of 11 July 1985, *Commission v Germany*, C-107/84, EU:C:1985:332, regarding the interpretation of the exemption applicable to postal services (Article 132(1)(a)); of 20 June 2002, *Commission v Germany*, C-287/00, EU:C:2002:388, regarding the interpretation of the exemption applicable to education services (Article 132(1)(i)); of 9 February 2006, *Kinderopvang Enschede*, C-415/04, EU:C:2006:95, regarding the interpretation of the exemptions applicable to welfare and social security work, and protection of children (Article 132(1)(g) and (h)); of 14 June 2007, *Horizon College*, C-434/05, EU:C:2007:343, and of 14 June 2007, *Haderer*, C-445/05, EU:C:2007:344, both regarding the interpretation of the exemption applicable to education services (Article 132(1)(i) of the VAT Directive).

51 *Fazenda Pública*, paragraph 46.

the criteria to assess whether an activity carried out by public bodies constitutes an economic activity, whether it results in significant distortions of competition and whether it is carried out on such a small scale as to be negligible.

The Slovak authorities have put forward the concrete example of an organisation governed by public law that is linked to a Ministry fulfilling its tasks but acting independently. The organisation exploits property in two types of activities and receives consideration from recipients of the services provided who are employees of the Ministry:

- providing accommodation and dining services and sports activities to employees of the Ministry that also receive training services and education services[52] in which case the employee receives compensation according to the national legislation for the accommodation and meals that the employee has received ('educated employees');

- providing accommodation and dining services and sports activities to employees of the Ministry when the property is not used for training and education purposes ('relaxing employees').

3. COMMISSION SERVICES' OPINION

On the basis of the analysis of the settled case law and past discussions of the VAT Committee we establish a logical sequence of criteria for the application of the VAT Directive in relation to activities carried out by public bodies ('cascade reasoning'). It should be stressed that this cascade reasoning aims to establish a logical sequence that cannot be generalised *per se* and should be applied on a case-by-case basis, where a thorough assessment of the relevant facts is required.

While the example may derive from a concrete case, this only serves as a backdrop to, and illustration of, the issues linked to the VAT treatment of public bodies that need a harmonised interpretation. In that respect, the VAT Committee is the right place to discuss matters where guidance towards a harmonised interpretation of the VAT Directive is needed.

Therefore, the views of the Commission services and the opinion of the VAT Committee should be seen as aiming to provide general guidance on the application of the VAT rules through a concrete case, rather than adjudicating on the case as presented.

3.1 Cascade reasoning on how to apply the VAT Directive in relation to activities carried out by public bodies

A. Do the activities carried out by a public body <u>first</u>, constitute a supply of goods or services for consideration, within the meaning of Article 2(1)(a) and (c) of the VAT Directive, and, <u>second</u>, have they been carried out in the course of an economic activity, within the meaning of Article 9(1) of that directive, with the result that that body has acted as a taxable person?

[52] It can be presumed that the education and training services are not supplied against consideration.

The question of whether or not the special scheme for public bodies pursuant to Article 13 of the VAT Directive is applicable only arises (i) if the activities performed by these bodies qualify as an economic activity subject to VAT based on specific criteria and (ii) if these bodies engage in these activities as public authorities. The reply to such a question always requires a case-by-case analysis.

The first step is to define whether the activities carried out by public bodies constitute a supply of goods or services for consideration carried out in the course of an economic activity granting the public body in question, at a first instance, the status of a taxable person.

- Criterion to be taken into account for a transaction to constitute **a supply of goods or services for consideration**

Direct link between the services provided and the consideration received

The decisive element to define a supply for consideration is the notion of (sufficiently) direct link.

A direct link can be established on the basis of a legal relationship between the provider of the services and the recipient pursuant to which there is reciprocal performance, the value of those services is expressed in monetary terms and the remuneration received by the provider of the services constitutes the value actually given in return for the services supplied to the recipient.

Further specifying the notion of (sufficiently) direct link for the activities of public bodies

On the one hand, elements such as the fact that the consideration does not reflect the market value of the supply, that the consideration does not cover the costs of making the supply or the activity is financed mainly by public funding do not automatically detract from there being a direct link between the supply of goods or services and the consideration received.

On the other hand, elements such as that the consideration does not relate to the actual supply of goods or services but to other factors such as the income of the recipient or the stay of the recipient at a given area might break the direct link between the supply of goods or services and the consideration received[53].

- Criteria to be taken into account to conclude that the supply is carried out in the course of **an economic activity**

The scope of the term economic activity is very wide and objective in character, in the sense that the activity is considered *per se* and without regard to its purpose or results. The application of the following criteria is clarified for the activities of public bodies.

[53] CJEU, judgment of 27 March 2014, *Le Rayon d'Or*, C-151/13, EU:C:2014:185.

Independence of the activity

To examine this, it is necessary to ascertain whether, in the pursuit of an activity, the public body acts independently or in an employer-employee relationship, especially in the case of linked entities (for example a public authority and its organisational entity).

Elements to be taken into account are whether, in the case of linked entities, the body concerned performs its activities in its own name, on its own behalf and under its own responsibility, and whether it bears the economic risk associated with carrying out those activities. It should be noted that in case the linked entity is not considered to be performing independently the activity, the analysis of the economic activity would rather focus on the principal public authority as the linked entities could be considered one taxable person.

Permanence of the activity and income obtained from it on a continuing basis

These notions in particular should be assessed on a case-by-case basis. Although the Court has clarified that the ownership of the property where the activity is undertaken is not determinative, the CJEU has also introduced the elements of whether the public body intends to supply the goods or services on a regular basis, whether they employ or plan to employ workers etc. It is the Commission services' view that these elements cannot be generalised as they relate to the specific cases examined by the CJEU (municipalities supplying services through an undertaking selected following a call for tenders and to activities exercised by political parties).

Answer: The answer to this first question defines whether the activity falls within the scope of VAT or not and consequently, if a body should be considered, at first instance, as a taxable person.

B. Can the public body be regarded as a non-taxable person in respect of the activities or transactions in which it engages as public authorities in accordance with Article 13 of the VAT Directive?

Once established that the public body should be considered a taxable person pursuant to Articles 2 and 9 of the VAT Directive, the specific provision of Article 13 is applicable to examine whether the public body can be still considered as a non-taxable person as follows:

The second step is to define whether the public body can be considered as a non-taxable person although it engages either (i) in activities listed in Annex I of the VAT Directive as these are carried out on such a small scale as to be negligible or (ii) in other activities or transactions as a public authority for which dues, fees, contributions or payments are collected as its treatment as a non-taxable person would not lead to significant distortions of competition.

(i) Activities listed in Annex I, provided they are carried out on such a small scale as to be negligible

As analysed in section 2.3.5, a public body can be treated as a non-taxable person when engaged in activities specifically listed in Annex I of the VAT Directive (telecommunications, the supply of water, gas, electricity and steam, the transport of goods, port and airport services and passenger transport, etc.) on such a small scale as to be negligible, without examining the criterion of distortions of competition.

(ii) Activities in which public bodies engage in as public authorities (apart from those listed in Annex I), provided that their treatment as non-taxable persons would not lead to significant distortions of competition

To determine whether a public body can be considered a non-taxable person, the criteria of activities or transactions engaged in as a public authority and significant distortions of competition should be assessed.

Activities or transactions engaged in as public authorities

A definition of these activities cannot be based on the subject-matter or purpose of the activity engaged in by the public body. Activities pursued as public authorities are those engaged in by public bodies **under the special legal regime applicable to them.** This excludes activities engaged in by them not as bodies governed by public law but as entities subject to private law. Consequently, the only criterion to distinguish with certainty between those two categories of activity **is the legal regime applicable under national law.**

Significant distortions of competition

To establish whether rendering the public body a non-taxable person would not lead to significant distortions of competition requires an assessment of the economic circumstances on a case-by-case basis. That will require:

- looking at whether the public body engages in an activity which may also be engaged in, in competition with it, by private economic operators under a regime governed by private law or on the basis of administrative concessions; and

- evaluating whether there are significant distortions of competition[54] by reference to the activity in question, as such, without that evaluation relating to any particular market, and by reference not only to actual competition, but also to potential competition, provided that the possibility of a private operator entering the relevant market is real and not purely hypothetical.

Answer: The answer to this second question defines whether the body, even at first instance considered as a taxable person, can still be considered as a non-taxable person and thus its activity falls outside the scope of VAT.

[54] Leading to significant distortions of competition to the detriment of their private competitors, but also where it would lead to such distortions to the detriment of the public body.

C. Can Member States still treat a body governed by public law as a non-taxable person when performing exempt activities[55] in accordance with Article 13(2) of the VAT Directive, subject to the conditions of Article 13(1) of the VAT Directive being met?

If the Member State has laid down an express provision, it can rely on the option provided for in Article 13(2) of the VAT Directive and treat a public body engaging in exempt activities as a non-taxable person (thus resulting in the supplies being out of scope instead of taxable but exempt). Arguably, however, this entitlement is subject to the criteria put forward by the second question in this analysis. The clause will therefore not apply where treating these activities as being outside the scope of VAT gives rise to significant distortions of competition (Article 13(1), second subparagraph). Nor will it apply where the exempt activities entail a supply of goods or services listed in Annex I unless done on a negligible scale (Article 13(1), third subparagraph).

D. Other practical aspects related to the right of deduction and the taxable base

Once it is established that a public body should be considered a taxable person for a specific activity, other practical details need to be examined such as the taxable base and the right of deduction, notably the rules on proportional deduction. It should be noted that it is the Commission services' opinion that the taxable base should include 'subsidies directly linked to the price', that is subsidies which constitute the whole or part of the consideration for a supply of goods or services and which are paid by a third party to the seller or supplier. In this respect, the establishment of the link between the subsidy and the price must appear unequivocally following a case-by-case analysis of the circumstances underlying the payment of that consideration. This would align with previous guidelines of the VAT Committee according to which the taxable amount does not include subsidies paid by the public budget for this specific activity[56] with more recent CJEU rulings[57].

4. DELEGATIONS' OPINION

Delegations are asked to express their opinion on the Commission services' opinion.

*
* *

[55] Exempted in accordance with Articles 132, 135, 136 and 371, Articles 374 to 377, Article 378(2), Article 379(2) or Articles 380 to 390b of the VAT Directive.

[56] Pursuant to the analysis included in Working paper No 129 and guidelines resulting from the 28th meeting of 9-10 July 1990 XXI/1334/90 (p. 57).

[57] CJEU, judgments of 22 November 2001, *Office des produits wallons*, C-184/00, EU:C:2001:629, paragraph 13; and of 13 June 2002, *Keeping Newcastle Warm*, C-353/00, EU:C:2002:369, paragraph 27.

ANNEX I

Question from Slovakia concerning the application of EU VAT Directive on activities carrying out by bodies governed by public law /Article 2(1), Article 9(1) and Article 13(1)

1. Legal background

1.1. EU law

VAT Directive 2006/112/EC

Article 2(1)

1. The following transactions shall be subject to VAT:

   (a) the supply of goods for consideration within the territory of a Member State by a taxable person acting as such;

   ...

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

   …

Article 9(1)

1. ‘Taxable person’ shall mean any person who, independently, carries out in any place any economic activity, whatever the purpose or results of that activity.

   Any activity of producers, traders or persons supplying services, including mining and agricultural activities and activities of the professions, shall be regarded as ‘economic activity’. The exploitation of tangible or intangible property for the purposes of obtaining income therefrom on a continuing basis shall in particular be regarded as an economic activity.

Article 13(1)

1. States, regional and local government authorities and other bodies governed by public law shall not be regarded as taxable persons in respect of the activities or transactions in which they engage as public authorities, even where they collect dues, fees, contributions or payments in connection with those activities or transactions.

   However, when they engage in such activities or transactions, they shall be regarded as taxable persons in respect of those activities or transactions where their treatment as non-taxable persons would lead to significant distortions of competition.

   In any event, bodies governed by public law shall be regarded as taxable persons in respect of the activities listed in Annex I, provided that those activities are not carried out on such a small scale as to be negligible.

Relevant Court of Justice of the European Union (CJEU) case-law

C-612/21 Gmina O.

Article 2(1), Article 9(1) and Article 13(1) 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 fact that a municipality supplies and installs, through an undertaking, renewable energy systems for its residents who own their property and who have expressed their wish to be equipped with renewable energy systems, where such an activity is not intended to obtain income on a continuing basis and gives rise, on the part of those residents, solely to a payment covering at most one quarter of the costs incurred, the balance being financed by public funds, does not constitute a supply of goods and services subject to value added tax.

C-520/14 Gemeente Borsele

Article 9(1) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as meaning that a regional or local authority which provides a service for the transport of schoolchildren under conditions such as those described in the main proceedings does not carry out an economic activity and is not therefore a taxable person.

C-246/08 Commission of the European Communities v Republic of Finland

It follows from the point 53 that since there is not any economic activity of the public offices and for the applicability of Article 13(1) first subparagraph of VAT Directive 2006/112/EC it is presupposed a prior determination of economic nature of the activity, it is not necessary to examine whether these public offices carry out this activity as public authorities within the meaning of Article 13(1) first subparagraph of the VAT Directive 2006/112/EC, and whether the fact, that this activity is not subject to VAT, in any case leads to a distortion of economic competition within the meaning of the second subparagraph of the same provision.

1.2. Law of the Slovak Republic

Act No. 222/2004 Coll. on VAT

The mentioned provision of VAT Directive 2006/112/EC were transposed to § 2(1) letter a) and b) /subject of VAT/ and § 3(1, 2, 3 and 4) /taxable person/ of the VAT Act.

Act No. 523/2004 Coll. on Public Administration Budget Rules

The public administration budget rules act regulates the public administration budget, in particular the state budget, mutual financial relations and relations connected to them within the public administration and those relations to other entities. And it regulates the establishment of organizations (budgetary and contributory ones) too. The budgetary organizations are, by their incomes and expenses, connected to the state budget or the budget of a municipality or the budget of a higher territorial unit, and they manage (follow) according to the approved budget with the funds stipulated by its founder (e. g. a Ministry) within its own budget. The contributory organizations are connected to the state budget or the budget of a municipality or the budget of a higher territorial unit with a contribution, and usually less than 50% of its costs are covered by its receipts.

Such organizations can be established by law or by a decision of the founder, which is a central body of state administration (e. g. a Ministry), a municipality or a higher territorial unit, and they are being established to fulfil the tasks of the founder.

According to the public administration budget rules act, the state budgetary organizations provide each other with activities within their scope of responsibility free of charge.

Establishing document/Charter of incorporation

The founder shall issue an establishing document of the establishment of a budgetary organization or a contributory organization, which contains, in particular a definition of the subject of its activity and a description of the property that the organization is to manage/administer (but the property is owned by the state, a municipality, a higher territorial unit) in order to fulfil the tasks of the founder.

2. Example and consideration of the Slovak Republic

2.1. Example

An entity governed by public law is an organization established by the State (Ministry) in order to ensure a training of employees of a Ministry and employees of the state administration in a property (building). In case of free capacity in the building, the organization provides the free capacity for relaxation of employees (e.g. organizations under the jurisdiction of the Ministry). It means that this organization has an accommodation, dining, classrooms and equipment for sport activities for relaxation.

Supply of accommodation and supply of dining services by this entity (organization) governed by public law is by its nature similar to supplying of services by conventional business entity/company.

In this building (organization), there are employees (being accommodated and dinned) of the Ministry and other state administration for the purpose of education and training for the fulfilment their work tasks (hereafter as "educated employees").

If there is a free capacity during a year it is available to employees of the Ministry and employees of organization under its jurisdiction for relaxing stay (hereafter as "relaxing employees").

Costs of this organization are basically covered by expenses from the state budget. Both educated employees and relaxing employees pay for supplied services (accommodation and dining) consideration that covers direct material costs, however from an overall point of view it is only small fraction of year costs of the organization. In comparison to prices of conventional supplied similar services on the market these payments paid by the employees are rather symbolic (approximately 10% - 15% of the price paid for an individual service provided by the conventional (commercial) supplier).

Further, it is necessary to mention that funds from the state budget would be provided to the organization regardless the organization supplies services or not to employees (which practically happened for example during the COVID-19 pandemic or during the provision of temporary shelter for refugees from Ukraine when the premises of the organization were occupied for these purposes).

The Slovak Republic is dealing with the correctness of applying of the logical test at the activities of body governed by public law, in accordance with the criteria mentioned in the judgments of the Court of Justice (e. g. C-612/21 Gmina O., C-604/19 Gmina Wroclaw, C-520/14 Gemeente Borsele, C-246/08 Commission v Finland).

- step 1.

To assess whether a body governed by public law acts as a taxable person, i. e. whether it independently carries out economic activity.

An activity is in general considered to be economic if it is of permanent nature and it is carried out for payment which is a receipt of the person carrying out the transaction. The assessment of each individual case is carried out with regard to that what would be the typical behaviour of an entrepreneur operating in the given area.

- step 2.

To assess whether it is supplying of services for consideration (because only supplying of services for consideration by taxable person is subject to VAT) which represents a real payment for the supplier.

The CJEU has already stated that a considerable difference between operating costs and the sums received in return for the services offered suggests that contribution paid by receivers of the service (parents) must be regarded more as a fee than as a consideration. This asymmetry results in the non-existence of a real connection between the sum paid and the supplied services.

The CJEU has also already stated that when a municipality recovers, through the contributions it receives, only a small part of the costs which it has incurred, whereas the balance is financed by public resources, such difference between those costs and the sums received in return for the supplied services suggests that these contributions must be regarded more a fee than as a consideration (that municipality bears only risks of loss without any prospect of profit). Under such circumstances it does not appear that the municipality carries out an activity of an economic nature within the meaning of Article 9(1) second subparagraph of VAT Directive 2006/112/EC.

Since the municipality does not carry out an activity falling within the scope of VAT Directive 2006/112/EC, it is not necessary to determinate whether that activity would also have been excluded from that scope also under Article 13(1) of that VAT Directive.

- step 3.

In case the above two assessments is answered in the affirmative way, it remains to be determined whether the non-application of VAT on services supplied by the organization leads to a significant distortion of competition, possibly it remains to assess a question whether the activities, when they are listed in Annex I, are carried out on such a small scale as to be negligible.

There could be more examples of the activities of individual bodies governed by public law but the method of financing has a common basis.

2.2. Our consideration

In terms of using the building´s capacity by educated employees, it seems important to take into account the fact that, although the organisation is an independent legal entity that manages independently, when providing its activity it is not doing that independently from its founder, as it is basically obliged to follow his (founder) instructions. In this context, the organization fulfils the tasks of the founder (which is also a state body) and its costs are covered principally from public resources[1].

As regards to use of the building´s capacity by relaxing employees, it can seem, that organization acts as a taxable person for the purpose of the VAT Act, because it receives direct payment for accommodation and dining services from relaxing employees. In this case, it cannot even be stated that it acts independently when supplying the services. However, the question remains concerning the fulfilment of the benchmark test (standard behaviour of a common entrepreneur) is concerned, since the payment paid by the relaxing employee represents only a part of the costs of the organization (the state) covered by the budget expenses. It is also necessary to state, that the range of service recipients is determined by the establishing document (only employees of the state administration and their family members) and at a determined time of the year exclusively, when there is free capacity of the building operated by this organization, i. e. when the capacity is not used for the purpose of the training of employees of the founder, possibly other state administration bodies. The last mentioned fact could also be related to the answer to the question of significant distortion of competition (accommodation) as well as the scope of carried out activity (dining service).

3. Questions

3.1. What is the opinion of the VAT Committee on the application of the rules of the VAT Directive regarding the activities of public authorities as defined by the CJEU in its numerous case law?

3.2. In general, what other criteria for assessing the activities of bodies governed by public law, other than those mentioned in the judgments of the CJEU, can be used while carrying out of the logical text, whether an activity is an economic activity as regards to its financing?

3.3. Is it possible, in the case of bodies governed by public law, to consider as useful to determine the share of receipts in costs up to the amount of which it would be possible to state that given activity is not subject to VAT because it is not reasonable to state that the body acts as a taxable person?

[1] If an educated employee pays for accommodation and dining services, the sum for accommodation is returned to him by his employer and he receives from the employer a generally determined sum for meals according to national regulation. Since the employer is always a state administration body or an organization established by it, the returned sums are always expenses from the state budget. On the other hand it is also necessary to point out the fact, that in general is the employee entitled to reimbursement of travel expenses (for accommodation) if the educational activity takes place in a place other than the place where the organization mentioned in the example is located. And also the employee is entitled, according to the same national regulation, to the sum for meal regardless of whether he uses dining services of this organization, another supplier of dining services or he does not use any dining services.

3.4. Which specific criteria according to the VAT Committee is necessary to take into account in order to determine whether the activity of a body governed by public law results in a significant distortion of competition as well as whether the activity is carried out on such a small scale as to be negligible (we are more concerned with the development of those that were stated by the Court of Justice in its judgments C-677/21 Fluvius Antwerpen)?

Conclusion

We would like to know the opinion of the Commission and the Member States on the raised questions as we are highly interested in proper application of the VAT mechanism and in accordance with the common opinion in order to be possible to ensure a uniform application of VAT mechanism in individual Member States.

ANNEX II

Overview of relevant ECJ rulings

CJEU	PARTIES	SUMMARY OF RULING / RELEVANT PARAGRAPHS
C-235/85	*Commission of the European Communities v Kingdom of the Netherlands*	In as much as notaries and bailiffs, when performing their official services, carry out independent economic activities consisting in the supply of services to third parties, in return for which they receive fees for their own account, they must be regarded as taxable persons for VAT purposes, within the meaning of Article 4(1) and 4(2) of the Sixth Directive, even assuming that, in performing those services, they exercise powers of a public authority by virtue of their appointment to public office, they many not enjoy the exemption provided for in Article 4(5) since they pursue their activities as members of a liberal profession, without being part of the public administration.
Joined cases C-231/87 and C-129/88.	*Ufficio distrettuale delle imposte dirette di Fiorenzuola d'Arda (Piacenza) and Comune di Carpaneto Piacentino (Piacenza), and* *Comune di Rivergaro and 23 other local authorities and Ufficio provinciale imposta sul valore aggiunto di Piacenza (Piacenza)*	(1) The first subparagraph of Article 4(5) of the Sixth Directive must be interpreted as meaning that activities pursued 'as public authorities' within the meaning of that provision are those engaged in by bodies governed by public law under the special legal regime applicable to them and do not include activities pursued by them under the same legal conditions as those that apply to private traders. It is for each Member State to choose the appropriate legislative technique for transposing into national law the rule of treatment as a non-taxable person laid down in that provision. (2) The second subparagraph of Article 4(5) of the Sixth Directive must be interpreted as meaning that the Member States are required to ensure that bodies subject to public law are treated as taxable persons in respect of activities in which they engage as public authorities where those activities may also be engaged in, in competition with them, by private individuals, in cases in which the treatment of those bodies as non-taxable persons could lead to significant distortions of competition, but they are not obliged to transpose that criterion literally into their national law or to lay down precise quantitative limits for such treatment. (3) The third subparagraph of Article 4(5) of the Sixth Directive must be interpreted as meaning that it does not require the Member States to transpose into their tax legislation the criterion of the non-negligible scale of activities as a condition for treating the activities listed in Annex D as taxable.

		(4) A body governed by public law may rely on Article 4(5) of the Sixth Directive for the purpose of opposing the application of a national provision making it subject to VAT in respect of an activity in which it engages as a public authority, which is not listed in Annex D and whose treatment as non-taxable is not liable to give rise to significant distortions of competition.
C-4/89	*Comune di Carpaneto Piacentino and others v Ufficio provinciale imposta sul valore aggiunto di Piacenza*	The first subparagraph of Article 4(5) of the Sixth Directive on the harmonization of the laws of the Member States relating to turnover taxes must be interpreted as meaning that activities pursued "as public authorities" within the meaning of that provision are those engaged in by bodies governed by public law under the special legal regime applicable to them and do not include activities pursued by them under the same legal conditions as those that apply to private traders . It is for the national court to classify the activities in question in the light of that criterion. The second subparagraph must be interpreted as meaning that the Member States are required to ensure that bodies subject to public law are treated as taxable persons in respect of activities in which they engage as public authorities where those activities may also be engaged in, in competition with them, by private individuals, in cases in which their treatment as non-taxable persons could lead to significant distortions of competition, but they are not obliged to transpose that criterion literally into their national law or to lay down precise quantitative limits for such treatment . The third subparagraph must be interpreted as meaning that it does not require the Member States to transpose into their tax legislation the criterion of the non-negligible scale of activities as a condition for treating the activities listed in Annex D as taxable.
C-247/95	*Finanzamt Augsburg-Stadt v Marktgemeinde Welden*	The fourth subparagraph of Article 4(5) 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 — Common system of value added tax: uniform basis of assessment, must be interpreted as permitting Member States to consider that the activities listed in Article 13 of the directive are carried out by bodies governed by public law as public authorities, even if they are performed in a similar manner to those of a private trader.

C-276/97	*Commission of the European Communities v French Republic*	1. Declares that by failing to charge value added tax on motorway tolls collected as consideration for the service supplied to users, where that service is not provided by a body governed by public law within the meaning of Article 4(5) of the 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, and by failing to make available to the Commission of the European Communities as own resources accruing from value added tax the amounts corresponding to the value added tax which should have been levied on those tolls together with interest for late payment, the French Republic has failed to fulfil its obligations under Articles 2 and 4 of that directive and under Council Regulation (EEC, Euratom) No 1553/89 of 29 May 1989 on the definitive uniform arrangements for the collection of own resources accruing from value added tax and Council Regulation (EEC, Euratom) No 1552/89 of 29 May 1989 implementing Decision 88/376/EEC, Euratom on the system of the Communities' own resources.
C-358/97	*Commission of the European Communities v Ireland*	1. Declares that by failing to subject to value added tax tolls collected for the use of toll roads and toll bridges as consideration for the service supplied to users, when that service is not provided by a body governed by public law within the meaning of Article 4(5) of the 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, and by failing to make available to the Commission of the European Communities as own resources accruing from value added tax the amounts corresponding to the tax which should have been levied on those tolls together with interest for late payment, Ireland has failed to fulfil its obligations under Articles 2 and 4 of that directive and under Council Regulation (EEC, Euratom) No 1553/89 of 29 May 1989 on the definitive uniform arrangements for the collection of own resources accruing from value added tax and Council Regulation (EEC, Euratom) No 1552/89 of 29 May 1989 implementing Decision 88/376/EEC, Euratom on the system of the Communities' own resources.
C-359/97	*Commission of the European Communities v United Kingdom of Great Britain and Northern Ireland*	1. Declares that by failing to subject to value added tax tolls collected for the use of toll roads and toll bridges as consideration for the service supplied to users, where that service is not provided by a body governed by public law within the meaning of Article 4(5) of the 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, and by failing to make available to the Commission of the European Communities as own resources accruing from value added tax the amounts corresponding to the tax which should have been levied on those tolls together with interest for late payment, the United Kingdom of Great Britain and Northern Ireland has failed to fulfil its obligations under Articles 2 and 4 of that directive and under Council Regulation (EEC, Euratom) No 1553/89 of 29 May 1989 on the definitive uniform arrangements for the collection of own resources accruing from value added tax and Council Regulation (EEC, Euratom) No 1552/89 of 29 May 1989 implementing Decision 88/376/EEC, Euratom on the system of the Communities' own resources.
C-408/97	*Commission of the European Communities v Kingdom of the Netherlands*	1. While it is incumbent upon the Commission, in proceedings under Article 169 of the Treaty (now Article 226 EC) for failure to fulfil obligations, to prove the allegation that the obligation has not been fulfilled, a Member State cannot plead the lack of specific information as to national law and practice put forward by the Commission, and, therefore, the inadmissibility of the action, where the Commission is largely relying on the information provided by the Member State concerned, as the latter is bound to facilitate the achievement of the Commission's tasks. 2. The provision of roads infrastructure on payment of a toll constitutes a supply of services for consideration within the meaning of Article 2(1) of the Sixth Directive 77/388 on the harmonisation of the laws of the Member States relating to turnover taxes. Use of the road depends on payment of a toll, the amount of which varies *inter alia* according to the category of vehicle used and the distance covered. There is, therefore, a direct and necessary link between the service provided and the financial consideration received. 3. In order for the exemption from value added tax for bodies governed by public law, provided for by the first subparagraph of Article 4(5) of the Sixth Directive 77/388 on the harmonisation of the laws of the Member States relating to turnover taxes, to apply as regards activities or transactions in which they engage as public authorities, two conditions must be fulfilled: the activities must be carried out by a body governed by public law and they must be carried out by that body acting as a public authority. As regards the latter condition, activities pursued as public authorities are those engaged in by bodies governed by public law under the special legal regime applicable to them and do not include activities pursued by them under the same legal conditions as those that apply to private traders.

C-446/98	*Fazenda Pública v Câmara Municipal do Porto*	1. The letting of spaces for the parking of vehicles is an activity which, where it is carried on by a body governed by public law, is carried on by that body as a public authority within the meaning of the first subparagraph of Article 4(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, if it is carried on under a special legal regime applicable to bodies governed by public law. That is the case where the pursuit of the activity involves the use of public powers. 2. The third subparagraph of Article 4(5) of Sixth Directive 77/388 must be interpreted as meaning that bodies governed by public law are not necessarily regarded as taxable persons in respect of the activities they engage in which are not negligible. Only if those bodies engage in an activity or perform a transaction listed in Annex D to that directive may the criterion of the negligible scale of that activity or transaction be taken into account with the aim, if national law makes use of the option provided for in the third subparagraph of Article 4(5) of Sixth Directive 77/388, of excluding them from being taxable person. 3. The Finance Minister of a Member State may be authorised by a national law to define what is covered by, first, the concept of significant distortions of competition within the meaning of the second subparagraph of Article 4(5) of Sixth Directive 77/388 and, second, the concept of negligible activities within the meaning of the third subparagraph of Article 4(5) of that directive, provided that his decisions of application may be reviewed by the national courts. 4. The fourth subparagraph of Article 4(5) of Sixth Directive 77/388 must be interpreted as meaning that the absence of an exemption for the letting of spaces for the parking of vehicles, which follows from Article 13B(b) of that directive, does not prevent bodies governed by public law which carry out that activity from being treated as non-taxable persons for value added tax in respect of it, where the conditions stated in the first and second subparagraphs are satisfied. 5. A national court is entitled, and in certain cases obliged, to refer to the Court, even of its own motion, a question concerning the interpretation of Directive 77/388, if it considers that a decision on the point by the Court is necessary for it to give judgment, and once it has made that reference it is bound by the Court's decision when it gives final judgment in the main proceedings. ns for value added tax purposes where their activities are negligible.

C-184/00	*Office des produits wallons ASBL v Belgian State*	For the purposes of Article 11A(1)(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 'subsidies directly linked to the price' must be interpreted as covering only subsidies which constitute the whole or part of the consideration for a supply of goods or services and which are paid by a third party to the seller or supplier. It is for the national court to determine, on the basis of the facts before it, whether or not the subsidy constitutes such consideration.
C-353/00	*Keeping Newcastle Warm Limited v Commissioners of Customs and Excise*	Article 11A(1)(a) of the 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 is to be interpreted as meaning that a sum such as that paid in the case in the main proceedings constitutes part of the consideration for the supply of services and forms part of the taxable amount in respect of that supply for the purposes of value added tax.
C-284/04	*T-Mobile Austria GmbH and Others v Republik Österreich*	Article 4(2) 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, is to be interpreted as meaning that the allocation, by auction by the national regulatory authority responsible for spectrum assignment, of rights such as rights to use frequencies in the electromagnetic spectrum with the aim of providing the public with mobile telecommunications services does not constitute an economic activity within the meaning of that provision and, consequently, does not fall within the scope of that directive,
C-369/04	*Hutchison 3G UK Ltd and Others v Commissioners of Customs and Excise*	Article 4(1) and (2) 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 is to be interpreted as meaning that the issuing of licences, such as third generation mobile telecommunications licences known as 'UMTS', by auction by the national regulatory authority responsible for spectrum assignment of the rights to use telecommunications equipment does not constitute an economic activity within the meaning of that provision and, consequently, does not fall within the scope of that directive,

C-430/04	*Finanzamt Eisleben v Feuerbestattungsverein Halle eV*	A private person who is in competition with a body governed by public law and alleges that that body is, in respect of the activities in which it engages as a public authority, treated as a non-taxable person for value added tax purposes or undertaxed is entitled to rely, before the national court, on the second subparagraph of Article 4(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 in proceedings, such as the main proceedings, between a private person and the national tax authorities.
C-408/06	*Landesanstalt für Landwirtschaft v Franz Götz*	1. A milk-quota sales point is neither an agricultural intervention agency within the meaning of the third subparagraph of Article 4(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 2001/4/EC of 19 January 2001, read in conjunction with point 7 of Annex D thereto, nor a staff shop within the meaning of the third subparagraph of Article 4(5) of that directive, read in conjunction with point 12 of Annex D thereto, 2. The treatment of a milk-quota sales point as a non-taxable person in respect of activities or transactions in which it engages as a public authority, within the meaning of Article 4(5) of the Sixth Directive, as amended by Directive 2001/4/EC, cannot give rise to significant distortions of competition, by reason of the fact that it is not faced, in a situation such as that at issue in the main proceedings, with private operators providing services which are in competition with the public services. As that finding applies in respect of all milk-quota sales points operating within a given delivery reference quantity transfer area, defined by the Member State concerned, that area constitutes the relevant geographic market for the purpose of establishing whether there are significant distortions of competition
C 288/07	*Commissioners of Her Majesty's Revenue & Customs v Isle of Wight Council and Others*	1. The second subparagraph of Article 4(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 is to be interpreted as meaning that the significant distortions of competition, to which the treatment as non-taxable persons of bodies governed by public law acting as public authorities would lead, must be evaluated by reference to the activity in question, as such, without such evaluation relating to any local market in particular.

		2. The expression 'would lead to' is, for the purposes of the second subparagraph of Article 4(5) of Sixth Council Directive 77/388, to be interpreted as encompassing not only actual competition, but also potential competition, provided that the possibility of a private operator entering the relevant market is real, and not purely hypothetical. 3. The word 'significant' is, for the purposes of the second subparagraph of Article 4(5) of Sixth Council Directive 77/388, to be understood as meaning that the actual or potential distortions of competition must be more than negligible.
C-456/07	*Karol Mihal v Daňový úrad Košice V*	An activity exercised by a private individual, such as that of a bailiff, is not exempted from value added tax merely because it consists in engaging in acts falling within the rights and powers of a public authority. Even on the assumption that, in the exercise of his duties, a bailiff does carry out such acts, he does not, under legislation such as that at issue in the main proceedings, exercise his activity in the form of a body governed by public law, not being integrated into the organisation of the public administration, but in the form of an independent economic activity carried out in a self-employed capacity, and, consequently, he is not covered by the exemption provided for in the first subparagraph of Article 4(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.
C-554/07	*Commission of the European Communities v Ireland*	1. Declares that, by failing to lay down, in its national legislation, a general requirement that economic activities in which bodies governed by public law engage otherwise than in their capacity as a public authority are to be subject to value added tax; by failing to lay down, in its national legislation, either a general requirement that bodies governed by public law acting in their capacity as a public authority are to be subject to value added tax where their treatment as non-taxable persons gives rise to significant distortions of competition or any criterion providing a framework for the exercise, in that connection, of the Minister for Finance's discretion, and by failing to lay down, in its national legislation, a general requirement that bodies governed by public law engaged in activities listed in Annex I to Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax are to be subject to such tax, provided that those activities are not carried out on such a small scale as to be negligible, Ireland has failed to fulfil its obligations under Articles 2, 9 and 13 of the Directive.

C-102/08	*Finanzamt Düsseldorf-Süd v SALIX Grundstücks-Vermietungsgesellschaft mbH & Co. Objekt Offenbach KG*	1. The Member States must lay down an express provision in order to be able to rely on the option provided for in the fourth subparagraph of Article 4(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, according to which specific activities of bodies governed by public law that are exempt under Article 13 or Article 28 of that directive are considered as activities of public authorities. 2. The second subparagraph of Article 4(5) of Sixth Directive 77/388 must be interpreted as meaning that bodies governed by public law are to be considered taxable persons in respect of activities or transactions in which they engage as public authorities not only where their treatment as non-taxable persons under the first or fourth subparagraphs of that provision would lead to significant distortions of competition to the detriment of their private competitors, but also where it would lead to such distortions to their own detriment.
C 154/08	*Commission of the European Communities v Kingdom of Spain*	Declares that, by considering that the services supplied to an Autonomous Community by 'registradores de la propiedad' acting as settlement agents in charge of a settlement office of a mortgage district ('oficina liquidadora de distrito hipotecario') are not subject to value added tax, the Kingdom of Spain has failed to fulfil its obligations under Article 2 and Article 4(1) and (2) 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;
C-246/08	*Commission of the European Communities v Republic of Finland*	Dismissed for lack of evidence by the CJEU yet paragraph 51 is relevant: 51. Therefore, in light of the foregoing, it does not appear that the link between the legal aid services provided by public offices and the payment to be made by the recipients is sufficiently direct for that payment to be regarded as consideration for those services and, accordingly, for those services to be regarded as economic activities for the purposes of Article 2(1) and Article 4(1) and (2) of the Sixth Directive.
C –267/08	*SPÖ Landesorganisation Kärnten v Finanzamt Klagenfurt*	Article 4(1) and (2) of the 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 must be interpreted as meaning that external advertising activities carried out by a section of a Member State's political party are not to be regarded as an economic activity.

C-62/12	*Galin Kostov v Direktor na Direktsia 'Obzhalvane i upravlenie na izpalnenieto' – Varna pri Tsentralno upravlenie na Natsionalnata agentsia za prihodite*	Paragraphs that are relevant: (28) Next, whilst it is true that it may be inferred, upon interpreting Article 12(1) of the VAT Directive a contrario, that a person who carries out only occasionally a transaction generally effected by a producer, trader or person supplying services is not, in principle, to be considered a 'taxable person' within the meaning of that directive, it does not, however, necessarily follow from that provision that a taxable person acting in a certain field of activity who occasionally carries out a transaction falling within another field of activity is not liable to VAT on that transaction. (29) On the contrary, as follows from recital 5 in the preamble to the VAT Directive, '[a] VAT system achieves the highest degree of simplicity and of neutrality when the tax is levied in as general a manner as possible'. In addition, recital 13 states that, '[i]n order to enhance the non-discriminatory nature of the tax, the term "taxable person" should be defined in such a way that the Member States may use it to cover persons who occasionally carry out certain transactions'. (30) Accordingly, Article 12(1) of the VAT Directive should be interpreted as referring only to persons who are not already a taxable person for VAT purposes in respect of their main economic activities. On the other hand, in the case of such a taxable person, like Mr Kostov, it would not be consistent with, in particular, the objective that VAT should be levied with simplicity and in as general a manner as possible to interpret the second subparagraph of Article 9(1) of the VAT Directive as meaning that the term 'economic activity' appearing in that provision does not encompass an activity which, whilst carried out only occasionally, falls within the general definition of that term in the first sentence of that provision and is carried out by a taxable person who also carries out, permanently, another economic activity for the purposes of the VAT Directive. (31) Having regard to the foregoing, the answer to the question referred is that Article 9(1) of the VAT Directive is to be interpreted as meaning that a natural person who is already a taxable person for VAT purposes in respect of his activities as a self-employed bailiff must be regarded as a 'taxable person' in respect of any other economic activity carried out occasionally, provided that that activity constitutes an activity within the meaning of the second subparagraph of Article 9(1) of the VAT Directive.

C-72/13	*Gmina Wrocław v Minister Finansów*	Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as not precluding transactions such as those envisaged by the gmina Wrocław (municipality of Wrocław) from being subject to value added tax, in so far as the referring court states that those transactions constitute an economic activity within the meaning of Article 9(1) of that directive and such transactions are not carried out by that municipality as a public authority within the meaning of the first subparagraph of Article 13(1) of that directive. However, if those transactions were to be considered to be carried out by that municipality acting as a public authority, Directive 2006/112 would not prohibit their taxation to the extent that the referring court should find that their exemption would be capable of giving rise to significant distortions of competition within the meaning of the second subparagraph of Article 13(1) of that directive.
C-331/14	*Petar Kezić s.p. Trgovina Prizma*	(23) In this respect it is true that the mere exercise of the right of ownership by its holder cannot, in itself, be regarded as constituting an economic activity (see, to that effect, judgment in *Słaby and Others*, C-180/10 and C-181/10, EU:C:2011:589, paragraph 36). Furthermore, from that point of view, the fact that the subject-matter of the sale was acquired by the taxable person using his personal resources cannot have a decisive effect.
C-276/14	*Gmina Wrocław v Minister Finansów*	Article 9(1) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as meaning that bodies governed by public law, such as the municipal budgetary entities at issue in the main proceedings, cannot be regarded as taxable persons for the purposes of value added tax in so far as they do not satisfy the criterion of independence set out in that provision.
C-520/14	*Gemeente Borsele v Staats-secretaris van Financiën and Staatssecretaris van Financiën v Gemeente Borsele*	Article 9(1) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as meaning that a regional or local authority which provides a service for the transport of schoolchildren under conditions such as those described in the main proceedings does not carry out an economic activity and is not therefore a taxable person.
C-11/15	*Odvolací finanční ředitelství v Český rozhlas*	Article 2(1) 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 must be interpreted as meaning that public broadcasting activities, such as those at issue in the main proceedings, funded by a compulsory statutory charge paid by owners or possessors of a radio receiver and carried out by a radio broadcasting company created

		by law, do not constitute a supply of services 'effected for consideration' within the meaning of that provision and therefore fall outside the scope of that directive.
C-344/15	*National Roads Authority v The Revenue Commissioners*	The second subparagraph of Article 13(1) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as meaning that, in a situation such that in the main proceedings, a body governed by public law which carries on an activity consisting in providing access to a road on payment of a toll may not be regarded as competing with private operators who collect tolls on other toll roads pursuant to an agreement with the public law body concerned under national statutory provisions.
C-182/17	*Nagyszénás Településszolgáltatási Nonprofit Kft. v Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága*	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, subject to verification of the relevant facts by the referring court, that an activity such as that at issue in the main proceedings, whereby a company performs certain public tasks under a contract concluded between that company and a municipality, constitutes a supply of services effected for consideration and subject to value added tax under that provision. 2. Article 13(1) of Directive 2006/112 must be interpreted as meaning that, subject to verification of the relevant matters of fact and national law by the referring court, an activity such as that at issue in the main proceedings, whereby a company performs certain public municipal tasks under a contract concluded between that company and a municipality, does not fall within the scope of the rule of treatment as a non-taxable person for value added tax purposes laid down by that provision, if that activity constitutes an economic activity within the meaning of Article 9(1) of that directive.
C 612/21	*Gmina O. v Dyrektor Krajowej Informacji Skarbowej*	Article 2(1), Article 9(1) and Article 13(1) 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 fact that a municipality supplies and installs, through an undertaking, renewable energy systems for its residents who own their property and who have expressed their wish to be equipped with renewable energy systems, where such an activity is not intended to obtain income on a continuing basis and gives rise, on the part of those residents, solely to a payment covering at most one quarter of the costs incurred, the balance being financed by public funds, does not constitute a supply of goods and services subject to value added tax.

C-616/21	*Dyrektor Krajowej Informacji Skarbowej v Gmina L.*	Article 2(1), Article 9(1) and Article 13(1) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as meaning that where a municipality has arranged by means of an undertaking to carry out transactions involving asbestos removal and collection of asbestos products and waste, for the benefit of its residents who own immovable property and who have expressed interest in that regard, where such an activity is not intended to obtain income on a continuing basis and does not give rise, on the part of those residents, to any payment, since those transactions are financed by public funds, does not constitute a supply of services subject to value added tax.
C-344/22	*Gemeinde A. v Finanzamt.*	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 provision of spa facilities by a municipality does not constitute a 'supply of services for consideration', within the meaning of that provision, where, on the basis of municipal by-laws, that municipality imposes a spa tax of a certain amount per day's stay on visitors staying in the municipality, when the obligation to pay that tax is linked not to the use of those facilities but to the stay in the municipal territory and those facilities are freely and gratuitously accessible to everyone.