JUDGMENT OF THE COURT (Fourth Chamber)

19 July 2012 (*)

(Sixth Directive — Exemptions — Article 15(6) — Exemption for the supply of aircraft used by airlines operating for reward chiefly on international routes — Supply of aircraft to an operator who makes them available to such an undertaking — Concept of ‘operating for reward on international routes’ — Charter flights)

In Case C-33/11,

REFERENCE for a preliminary ruling under Article 267 TFEU from the Korkein hallinto-oikeus (Finland), made by decision of 18 January 2011, received at the Court on 21 January 2011, in the proceedings

A Oy,

THE COURT (Fourth Chamber),

composed of J.-C. Bonichot, President of the Chamber, A. Prechal (Rapporteur), L. Bay Larsen, C. Toader and E. Jaraši?nas, Judges,

Advocate General: P. Cruz Villalón,

Registrar: M. Ferreira, Principal Administrator,

having regard to the written procedure and further to the hearing on 8 February 2012,

after considering the observations submitted on behalf of:

– A Oy, by P. Salomaa,

– the Finnish Government, by M. Pere, acting as Agent,

– the European Commission, by I. Koskinen and L. Lozano Palacios, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 26 April 2012,

gives the following

Judgment

1 The reference for a preliminary ruling in this case concerns the interpretation of Article 15(6) of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (OJ 1977 L 145, p. 1), as amended by Council Directive 92/111/EEC of 14 December 1992 (OJ 1991 L 384, p. 47) (‘the Sixth Directive’).

2 That reference was made in the course of proceedings brought by A Oy (‘A’) against the tax assessment notice concerning value added tax (‘VAT’) relating to the acquisition of aircraft, issued to it by the Kaakkois-Suomen verovirasto (Southeast Finland Tax Office).

Legal context

European Union law

3 Article 2(1) of the Sixth Directive provides that ‘the supply of goods or services effected for consideration within the territory of a country by a taxable person acting as such’ is to be subject to VAT.

4 Under the heading ‘Exemption of exports from the Community and like transactions and international transport’, Article 15 of the Sixth Directive provides:

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

...

4. the supply of goods for the fuelling and provisioning of vessels:

(a) used for navigation on the high seas and carrying passengers for reward or used for the purpose of commercial, industrial or fishing activities;

...

5. the supply, modification, repair, maintenance, chartering and hiring of the sea-going vessels referred to in paragraph 4(a) and (b) and the supply, hiring, repair and maintenance of equipment — including fishing equipment - incorporated or used therein;

6. the supply, modification, repair, maintenance, chartering and hiring of aircraft used by airlines operating for reward chiefly on international routes, and the supply, hiring, repair and maintenance of equipment incorporated or used therein;

7. the supply of goods for the fuelling and provisioning of aircraft referred to in paragraph 6;

8. the supply of services other than those referred to in paragraph 5, to meet the direct needs of the sea-going vessels referred to in that paragraph or of their cargoes;

9. the supply of services other than those referred to in paragraph 6, to meet the direct needs of aircraft referred to in that paragraph or of their cargoes;

...’

5 Under Title XVIa of the Sixth Directive, entitled ‘Transitional arrangements for the taxation of trade between Member States’, Article 28a thereof provides:

‘1. The following shall also be subject to value added tax:

(a) intra-Community acquisitions of goods for consideration within the territory of the country by a taxable person acting as such or by a non-taxable legal person where the vendor is a taxable person acting as such ...

By way of derogation from the first subparagraph, intra-Community acquisitions of goods made under the conditions set out in paragraph 1a by a taxable person or non-taxable legal person shall not be subject to value added tax.

...

...

1a. The following shall benefit from the derogation set out in the second subparagraph of paragraph 1(a):

(a) intra-Community acquisitions of goods whose supply within the territory of the country would be exempt pursuant to Article 15(4) to (10);

...

3. “Intra-Community acquisition of goods” shall mean acquisition of the right to dispose as owner of movable tangible property dispatched or transported to the person acquiring the goods by or on behalf of the vendor or the person acquiring the goods to a Member State other than that from which the goods are dispatched or transported.

...’

Finnish law

6 The Sixth Directive was transposed into Finnish law by Law No 1501/1993 on value added tax (Arvonlisäverolaki 1501/1993) of 30 December 1993 (‘the AVL’).

7 Under Paragraph 1(1)(3) of the AVL, VAT is payable on all intra-Community acquisitions of goods within the meaning of Paragraph 26a of the AVL made in Finland. The latter provision defines intra-Community acquisition as acquisition for consideration of the ownership of movable property where the vendor, purchaser or any other third party acting on their own behalf transports that property from one Member State to another. Under Paragraph 2b of the AVL, the person liable for VAT on intra-Community acquisitions of goods within the meaning of Paragraph 1(1)(3) is the purchaser.

8 Under the sixth chapter of the AVL, dealing with exemptions in international trade, point 6 of the first paragraph of Paragraph 70 thereof provides that tax is not due on the sale of aircraft, spare parts and/or equipment for aircraft intended to be used by a trader operating for reward chiefly on international routes.

9 Under Paragraph 72f(1) of the AVL, VAT is not payable on intra-Community acquisitions of goods where VAT is not payable upon import of the goods. Point 9 of the first paragraph of Paragraph 94 of the AVL gives a VAT exemption for the import of aircraft, spare parts and equipment within the meaning of point 6 of the first paragraph of Paragraph 70 of the AVL.

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

10 In July 2002 and in October 2003, A acquired two jet aircraft from a French manufacturer. The vendor declared both transactions as intra-Community sales. A did not declare the acquisitions in question as intra-Community acquisitions of goods effected in Finland.

11 Both aircraft were registered in the Finnish aircraft registry on 22 July 2002 and 23 July

2004 respectively, whilst the relevant Air Operation Certificates (‘AOCs’) were issued on 19 November 2002 and 24 October 2004 respectively. A was listed as the owner of the two aircraft and B Oy (‘B’) was designated as the user of them. On 17 December 2003 and 1 April 2005, respectively, A resold the aircraft to an undertaking registered in Cyprus.

12 All of the shares in A are held by X, a natural person. A holds 25% of the shares in C Oy (‘C’). B is a 78%-owned subsidiary of C.

13 B organises international charter flights and ensures maintenance and management of aircraft. Under the contract it concluded with A, B has invoiced A inter alia for the costs of maintenance work on the aircraft and for flights. That agreement also allowed B to hire the aircraft from A for its own commercial purposes, at the price indicated in the annex thereto.

14 A’s total turnover for the accounting periods from 1 January to 31 December 2002 and from 1 January 2003 to 30 June 2004 of EUR 925 606.32 and EUR 2 170 503.84 respectively came entirely from accounting entries made on the basis of sales invoices addressed to X, A’s owner, with the sole exception of the invoice addressed to the Cypriot undertaking for the resale of the aircraft. The tax inspection found that A’s accounting records did not mention any income derived from aircraft hire.

15 A’s expenditure entries relating to the aircraft concerned primarily the invoices issued by B to A for the maintenance of the aircraft and flights. The aforementioned tax inspection found that the invoices had been passed on to X virtually unchanged.

16 A was registered as a taxable person for VAT as from 1 July 2002. In its notice of termination of business dated 14 June 2003, A declared that it had not pursued activities that were liable for VAT. The Southeast Finland Tax Office removed that company from the register of taxable persons for VAT with retroactive effect to 1 July 2002.

17 On 4 November 2005, the Southeast Finland Tax Office issued two tax assessments regarding the VAT owing by A on the intra-Community acquisition of the aircraft. The tax office also found that A was not entitled to any deduction or to the refund of that VAT.

18 The action brought by A against those tax assessments was dismissed by decision of 26 May 2008 of the Helsingin hallinto-oikeus (Administrative Court, Helsinki). The Administrative Court took the view that the two purchases of the aircraft had been taxable intra-Community acquisitions subject to VAT, which A had failed to declare to the tax office. A had not been operating flights for reward on international routes within the meaning of point 6 of the first paragraph of Paragraph 70 of the AVL, but rather in practice had acted as the owner of C, which was engaged in international oil product trading. Nor were the aircraft in question used by B in operating flights for reward on international routes within the meaning of point 6 of the first paragraph of Paragraph 70 of the AVL. The aim of the arrangement was merely to take care of the personal transportation needs of X, the principal owner of the companies.

19 A appealed against that decision to the Korkein hallinto-oikeus (Supreme Administrative Court of Finland). It argued that the acquisition of the aircraft should be VAT exempt, since they were purchased and registered by A with a view to entrusting them to ?, which is an airline operating for reward chiefly on international routes. As per usual practice in that sector, B is under assignment from A, in return for remuneration, to ensure that the aircraft are always in flight-ready condition and to promote their commercial use on the basis of specific contracts, whilst B has in fact offered aircraft to third parties in return for remuneration per hour of flight.

20 On the other hand, whilst acknowledging that B must be considered an airline operating for

reward on international routes, even though X has been the only person transported for consideration, the other party to the proceedings takes the view that, since A does not operate the flights itself but had the aircraft delivered from France to Finland and has provided them for free to B for the latter's use, the acquisitions in dispute cannot be VAT exempt.

21 Against that background, the Korkein hallinto-oikeus decided to stay the proceedings and to refer the following questions to the Court for a preliminary ruling:

'1. Is Article 15(6) of the [Sixth Directive] to be interpreted as meaning that the concept "airline operating for reward chiefly on international routes" also refers to a commercial airline operating for reward chiefly on international charter routes to meet the requirements of companies and private persons?

2. Is Article 15(6) of the [Sixth Directive] to be interpreted as meaning that the exemption provided for therein applies only to a supply of aircraft made directly to an airline operating for reward chiefly on international routes, or does that exemption apply also to the supply of aircraft to an operator which does not itself operate for reward chiefly on international routes, but makes the aircraft available for the use of such an operator?

3. Given that the airline may also have used the aircraft for other flights, does the fact that the owner passes on the charge for the use of the aircraft to an individual who is its shareholder and who uses the aircraft purchased chiefly for his own business and/or private purposes affect the answer to the second question?'

The questions referred for a preliminary ruling

The first question

22 By its first question, the referring court asks, in essence, whether the wording 'operating for reward on international routes' within the meaning of Article 15(6) of the Sixth Directive must be interpreted as encompassing also international charter flights to meet the requirements of companies and private persons.

23 The referring court's doubts on this point appear to relate to there being certain divergences between the different language versions of that provision. In its observations, A observes that some of the language versions, such as the English and Swedish versions, refer to 'international routes' rather than 'international traffic', an expression which may seem more generic and is used in most of the other language versions of that provision, including the Finnish version.

24 It is settled case-law that the interpretation of a provision of European Union law must, as a rule, take account of possible divergence between the different language versions of that provision (see, inter alia, Case C-382/02 *Cimber Air* [2004] ECR I-8379, paragraph 38).

25 In the present case, however, the nuances in wording referred to in paragraph 23 of this judgment do not lead to the conclusion that the European Union legislature intended to exclude international charter flights from the scope of the exemption introduced by Article 15(6) of the Sixth Directive.

26 Firstly, on a strictly textual reading, the wording 'international routes' as found in certain language versions is not defined anywhere in the Sixth Directive and, as pointed out by the European Commission and the Finnish Government, are not supplemented by any further clarification indicating that flights concerned must be 'regular' in nature. In those circumstances, such wording may, like the expression 'international routes' used in the other language versions,

be construed as referring, in essence, to flights made on an aircraft between two geographical points which make the transport concerned more international in nature than domestic. As the Court has held previously, Article 15(6) of the Sixth Directive is concerned in substance with airlines whose activities are chiefly international (*Cimber Air*, paragraphs 27 and 28).

27 According to the Court's settled case-law, in interpreting a provision of European Union law such as the one at issue here, it is necessary to consider not only its wording but also its context and the objectives pursued by the rules of which it is part (see, inter alia, Case C-185/89 *Velker International Oil Company* [1990] ECR I-2561, paragraph 17, and Case C-116/10 *Felgen and Bacino Charter Company* [2010] ECR I-14187, paragraph 12 and the case-law cited).

28 Neither the context surrounding Article 15(6) of the Sixth Directive nor its purpose is such as to require that the aircraft used by undertakings operating chiefly international charter flights be excluded from the scope of the exemption it introduces.

29 The purpose of that provision is to grant an exemption for the supply of aircraft when they are intended chiefly for use on international routes, that is to say, for flights crossing over the airspace of several States as well as, in some cases, international airspace.

30 It does not appear, in the light of such an objective, that it is necessary to draw a distinction depending on whether the international air transport is made on regular flights or charter flights.

31 Regarding the context surrounding Article 15(6) of the Sixth Directive, it should be borne in mind that, as is clear from consistent case-law, exemptions constitute independent concepts of European Union law which must be placed in the general context of the common system of VAT introduced by that directive (see, inter alia, *Cimber Air*, paragraph 23, and Case C-97/06 *Navicon* [2007] ECR I-8755, paragraph 20).

32 That system is based inter alia on the principle of fiscal neutrality, which precludes economic operators carrying out the same transactions from being treated differently in relation to the levying of VAT (see, inter alia, *Cimber Air*, paragraph 24, and *Navicon*, paragraph 21). That principle does not require the transactions to be identical. According to settled case-law that principle precludes, in particular, treating similar goods and supplies of services, which are thus in competition with each other, differently for VAT purposes (see, inter alia, Case C-363/05 *JP Morgan Fleming Claverhouse Investment Trust and The Association of Investment Trust Companies* [2007] ECR I-5517, paragraph 46 and the case-law cited).

33 The principle of fiscal neutrality includes the principle of elimination of distortion in competition as a result of differing treatment for VAT purposes. Therefore, distortion is established once it is found that supplies of services are in competition and are treated unequally for the purposes of VAT (see *JP Morgan Fleming Claverhouse Investment Trust and The Association of Investment Trust Companies*, paragraph 47 and the case-law cited).

34 Transport services offered by operators who operate chiefly international flights, be they regular flights and/or charter flights, are similarly and manifestly in competition with one another, with the result that different VAT treatment for supplies of aircraft depending on whether the operator operates chiefly international regular flights or chiefly international charter flights would give rise to the risk of distortions in competition as between those operators.

35 In the light of the foregoing, the answer to the first question is that the wording ‘operating for reward on international routes’ within the meaning of Article 15(6) of the Sixth Directive must be interpreted as encompassing also international charter flights to meet demand from undertakings and private persons.

The second question

36 By its second question, the referring court asks whether Article 15(6) of the Sixth Directive must be interpreted as meaning that the exemption for which it provides also applies to the supply of an aircraft to an operator which is not itself an ‘airline operating for reward chiefly on international routes’ within the meaning of that provision but which acquires that aircraft for the purposes of exclusive use thereof by such an undertaking.

37 It should be observed, first, that the Finnish language version of Article 15(6) refers to the supply of aircraft ‘to’ an airline operating for reward chiefly on international routes.

38 However, most of the other language versions of that same provision refer to supplies of aircraft ‘used by’ such an undertaking.

39 As stated in paragraph 24 of this judgment, the interpretation of that provision must, as a rule, take account of the linguistic differences thus observed.

40 Secondly, it is clear that the wording of most of the language versions of Article 15(6) of the Sixth Directive, in not emphasising the identity of the recipient of the supply or the owner of the aircraft, but rather the fact that the aircraft being supplied must be ‘used by’ an airline operating for reward chiefly on international routes, does not per se exclude from the scope of the exemption introduced by that provision supplies of aircraft to an operator who acquires them solely for use by such an undertaking under a leasing agreement, for example.

41 Thirdly, as observed in paragraph 27 of this judgment, it is necessary, for the purposes of interpreting Article 15(6) of the Sixth Directive, to take account not only of the wording of that provision, but also of its context and the objectives it pursues.

42 As regards, firstly, the objective pursued, it was stated above in paragraph 29 of this judgment that it consists in granting an exemption for the supply of aircraft when they are intended chiefly for use on international routes, that is to say, for flights crossing over the airspace of several States as well as, in some cases, international airspace.

43 It is clear, moreover, that such an objective is liable to give rise to an interpretation of Article 15(6) of the Sixth Directive according to which the condition that must be met in order for a supply of aircraft to be exempt under that provision is precisely that that aircraft be intended to be used by an airline operating for reward chiefly on international routes, the identity of the owner being immaterial in that regard.

44 However, account must be taken, in respect of this last point, of the fact that the purchaser of an aircraft will be liable to pay VAT on that acquisition, even where it took place solely for the purpose of that aircraft being used by an undertaking operating for reward chiefly on international routes, and that this inter alia will be likely to lead to an increase in the price the undertaking must pay for the use of the aircraft and, in so doing, undermine that objective. It may be presumed that the purchaser of the aircraft, having had to pay the VAT on the sale price, will, as a rule, pass on all or part of the charge resulting from the VAT payment to the user undertaking.

45 In such a scenario, and as observed by the Advocate General in point 38 of his Opinion,

even though the purchaser of the aircraft may subsequently be able to obtain a refund of the VAT under the Sixth Directive, the mere payment of VAT still amounts to a cash advance the financial consequences of which may be important, since that advance may be for a high amount. That burden is borne in the meantime by the purchaser.

46 It follows that, in the circumstances just described, the absence of VAT exemption for the supply of the aircraft and the payment of VAT by the purchaser will be an indirect burden for the undertaking using that aircraft.

47 Secondly, as regards the context surrounding Article 15(6) of the Sixth Directive, it was observed in paragraph 31 of this judgment that the exemptions introduced by that provision constitute independent concepts of European Union law which must be placed in the general context of the common system of VAT introduced by that directive.

48 That system is based in particular on two principles. Firstly, each supply of goods and services effected for consideration by a taxable person is subject to VAT. Secondly, as observed in paragraphs 32 and 33 of this judgment, the principle of neutrality precludes, inter alia, the provision of analogous services, which therefore are in competition with each other, from being treated differently for VAT purposes.

49 Although, according to settled case-law, in the light of those principles, the exemptions envisaged in Article 15 of the Sixth Directive are to be interpreted strictly since they constitute exceptions to the general principle that VAT is to be levied on all services supplied for consideration by a taxable person (see, inter alia, *Velker International Oil Company*, paragraph 19; *Cimber Air*, paragraph 25; Joined Cases C-181/04 to C-183/04 *Elmeka* [2006] ECR I-8167, paragraph 15; *Navicon*, paragraph 22; and *Feltgen and Bacino Charter Company*, paragraph 19), that requirement of strict interpretation does not mean that the terms used to specify the exemptions should be construed in such a way as to deprive those exemptions of their intended effect (see, inter alia, *Navicon*, paragraph 22).

50 In the present case, firstly, as observed above and as is evident from its wording and the objective it pursues, Article 15(6) of the Sixth Directive aims, in essence, to grant a VAT exemption for acquisitions of aircraft intended to be used by an undertaking operating for reward chiefly on international routes.

51 Secondly, it has not been alleged and nor does it seem that the interpretation according to which the exemption provided for in Article 15(6) of the Sixth Directive must also be granted for the supply of an aircraft to a trader which is not an ‘airline operating for reward chiefly on international routes’ within the meaning of that provision, but which acquires that aircraft solely for use by such an undertaking, is liable to undermine the principle of fiscal neutrality.

52 However, and as observed by the Advocate General in point 40 of his Opinion, the possibility cannot be ruled out from the outset that an interpretation to the contrary may, in certain circumstances, undermine that principle.

53 Moreover, although it is true that the interpretation set out in paragraph 51 of this judgment may seem to depart somewhat from the one endorsed by the Court in respect of the exemptions provided for in Article 15(4) and (8) of the Sixth Directive in relation to supply operations for the provisioning of sea-going vessels and services performed to meet their direct needs (see *Velker International Oil Company*, paragraphs 21 and 22, and *Elmeka*, paragraphs 22 and 24), it is important to bear in mind that there is nothing requiring the approaches adopted in those cases to be applied to the interpretation of Article 15(6).

54 As evidenced, in particular, by paragraphs 23 to 25 of *Elmeka*, an extension of the exemption provided for in Article 15(4) and (8) of the Sixth Directive to stages prior to the final supply of goods or services made directly to the vessel operator was ruled out by the Court in those judgments, in particular because such an exemption would require Member States to set up means of supervision and monitoring in order to be sure of the ultimate use of the goods or services in question. Such means would give rise to constraints for the Member States and the economic agents concerned which would be irreconcilable with the 'correct and straightforward application of such exemptions' prescribed by the first sentence of Article 15 of the Sixth Directive (see also *Velker International Oil Company*, paragraph 24).

55 As observed inter alia by the Advocate General in points 44 to 46 of his Opinion, it is difficult to apply such considerations to an exemption for the supply of an aircraft to a trader who intends to have it used solely by an undertaking operating for reward chiefly on international routes.

56 Making the exemption in such circumstances subject to the intended use being known and duly established as of the time of acquisition of the aircraft and to subsequent verification of the actual use of the aircraft by such an undertaking does not seem, in the light of the type of object at issue here and, inter alia, the registration and authorisation mechanisms in place for its use, to be liable to give rise to constraints for the Member States and the economic agents concerned which would be irreconcilable with the correct and straightforward application of the exemptions prescribed by the Sixth Directive.

57 In the light of all the foregoing, the answer to the second question is that Article 15(6) of the Sixth Directive must be interpreted as meaning that the exemption for which it provides also applies to the supply of an aircraft to an operator who is not itself an 'airline operating for reward chiefly on international routes' within the meaning of that provision but which acquires that aircraft for the purposes of exclusive use thereof by such an undertaking.

The third question

58 By its third question, the referring court asks whether the answer to the second question may be influenced by the fact that the operator who acquired the aircraft then passes on the charge for the use of the aircraft to an individual who is its shareholder and who uses the aircraft purchased chiefly for his own business and/or private purposes, given that the airline can also use it for other flights.

59 It should be borne in mind that, in accordance with the answer given to the second question, the only criterion for determining whether the exemption provided for in Article 15(6) of the Sixth Directive is applicable is whether the aircraft in question is used by an airline operating for reward chiefly on international routes, which it is for the national court to assess.

60 In that context, the circumstances mentioned by the referring court in its third question are therefore prima facie irrelevant for the answer to the second question, since the purchaser is able to demonstrate that that criterion is indeed satisfied.

61 However, should the national court determine, on the basis of an overall assessment of the facts of the case in the main proceedings, that the aircraft are not intended for commercial use by an airline on international routes, then Article 15(6) of the Sixth Directive should not apply.

62 It should also be borne in mind, as pointed out by the Finnish Government in its observations, that it is common ground that the application of the European Union rules cannot be extended to cover abusive practices by economic operators, that is to say, transactions carried out

not in the context of normal commercial operations, but solely for the purpose of wrongfully obtaining advantages provided for by European Union law, and that that principle of prohibiting abusive practices also applies to the sphere of VAT (see, inter alia, Case C-255/02 *Halifax and Others* [2006] ECR I-1609, paragraphs 69 and 70 and the case-law cited).

63 The effect of that principle is therefore to prohibit wholly artificial arrangements which do not reflect economic reality and are set up with the sole aim of obtaining a tax advantage (Case C-162/07 *Ampliscientifica and Amplifin* [2008] ECR I-4019, paragraph 28).

64 Thus, in the interpretation of the Sixth Directive, an abusive practice can be found to exist if, firstly, the transactions concerned, notwithstanding formal application of the conditions laid down by the relevant provisions of that directive and the national legislation transposing it, result in the accrual of a tax advantage the grant of which would be contrary to the purpose of those provisions and, secondly, it is apparent from a number of objective factors that the essential aim of the transactions concerned is to obtain such a tax advantage (see *Halifax and Others*, paragraphs 74 and 75, and Case C-425/06 *Part Service* [2008] ECR I-897, paragraph 42).

65 It is for the national court to verify in accordance with the rules of evidence of national law, provided that the effectiveness of European Union law is not undermined, whether action constituting such an abusive practice has taken place in the case before it (*Halifax and Others*, paragraph 76).

66 In the light of all the foregoing, the answer to the third question is that the circumstances referred to by the national court, namely the fact that the purchaser of the aircraft passes on the charge corresponding to its use to an individual who is its shareholder and who uses that aircraft essentially for his own business and/or private purposes, with the airline also having the opportunity to use it for other flights, are not such as to affect the answer to the second question.

Costs

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

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

1. **The wording ‘operating for reward on international routes’ within the meaning of Article 15(6) 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 92/111/EEC of 14 December 1992 must be interpreted as encompassing also international charter flights to meet demand from undertakings and private persons.**

2. **Article 15(6) of Directive 77/388, as amended by Directive 92/111, must be interpreted as meaning that the exemption for which it provides also applies to the supply of an aircraft to an operator who is not itself an ‘airline operating for reward chiefly on international routes’ within the meaning of that provision but which acquires that aircraft for the purposes of exclusive use thereof by such an undertaking.**

3. **The circumstances referred to by the national court, namely the fact that the purchaser of the aircraft passes on the charge corresponding to its use to an individual who is its shareholder and who uses that aircraft essentially for his own business and/or private purposes, with the airline also having the opportunity to use it for other flights, are not such as to affect the answer to the second question.**

[Signatures]

* Language of the case: Finnish.