Provisional text

OPINION OF ADVOCATE GENERAL

KOKOTT

delivered on 6 February 2020 (1)

Case C?716/18

CT

v

Administra?ia Jude?ean? a Finan?elor Publice Cara?-Severin — Serviciul Inspec?ie Persoane Fizice,

Direc?ia General? Regional? a Finan?elor Publice Timi?oara — Serviciul Solu?ionare Contesta?ii 1

(Request for a preliminary ruling from the Curtea de Apel Timi?oara (Court of Appeal, Timi?oara, Romania))

(Reference for a preliminary ruling — Directive 2006/112/EC — Articles 287 and 288 of the VAT Directive — Special scheme for small enterprises — Exemption below certain turnover limits — Calculation of that turnover exemption limit in the case of multiple economic activities — Concept of ‘real estate transactions’ to be taken into account which are not ‘ancillary transactions’)

I. Introduction

1. The present case concerns the ‘small enterprise exemption’, whereby taxable persons whose annual turnover is below a certain amount may be exempted from VAT by the Member State. In Romania that amount is EUR 65 000. The question at issue is how that amount is to be calculated if a taxable person carries on various activities. In the present case, the taxable person received income in 2012 from consultancy work as an accountant, tax consultant and lawyer, as an insolvency practitioner, as an author and from the letting of a property.

2. Because Romania does not include income/turnover from activity as a lawyer in that calculation, the limit of EUR 65 000 would be exceeded only if the turnover from letting were included. However, point 4 of the first sentence of Article 288 of the VAT Directive includes ‘real estate transactions’ in the calculation only if they are not ‘ancillary transactions’. The Court now has an opportunity for the first time to clarify whether the letting of a property is to be classified as a ‘real estate transaction’ and when an immaterial ‘ancillary transaction’ is to be taken to exist.

II. **Legal framework**

A. **EU law**

3. The EU law framework is determined by Articles 287 and 288 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ('the VAT Directive'). (2)

4. Point 18 of Article 287 of the VAT Directive provides:

'Member States which acceded after 1 January 1978 may exempt taxable persons whose annual turnover is no higher than the equivalent in national currency of the following amounts at the conversion rate on the day of their accession: …

(18) Romania: EUR 35 000; …'

5. Under Article 1 of the Council Implementing Decision of 26 March 2012, (3) by way of derogation from point 18 of Article 287 of Directive 2006/112, Romania is authorised to exempt from VAT taxable persons whose annual turnover is no higher than the equivalent in national currency of EUR 65 000 at the conversion rate on the day of its accession to the European Union.

6. Article 288 of the VAT Directive reads as follows:

'The turnover serving as a reference for the purposes of applying the arrangements provided for in this Section shall consist of the following amounts, exclusive of VAT:

(1) the value of supplies of goods and services, in so far as they are taxed;

(2) the value of transactions which are exempt, with deductibility of the VAT paid at the preceding stage, pursuant to Articles 110 or 111, Article 125(1), Article 127 or Article 128(1);

(3) the value of transactions which are exempt pursuant to Articles 146 to 149 and Articles 151, 152 or 153;

(4) the value of real estate transactions, financial transactions as referred to in points (b) to (g) of Article 135(1), and insurance services, unless those transactions are ancillary transactions.

However, disposals of the tangible or intangible capital assets of an undertaking shall not be taken into account for the purposes of calculating turnover.'

7. Furthermore, in connection with the apportionment of the input tax deduction, Article 174(2) provides as follows:

'By way of derogation from paragraph 1, the following amounts shall be excluded from the calculation of the deductible proportion: …

(b) the amount of turnover attributable to incidental real estate and financial transactions;

(c) the amount of turnover attributable to the transactions specified in points (b) to (g) of Article 135(1) in so far as those transactions are incidental.'

B. **Romanian law**

8. The relevant rules in Romanian law are laid down in Legea nr. 571 din 22 decembrie 2003

privind Codul fiscal (Law No 571 of 22 December 2003 on the Tax Code), as subsequently amended and supplemented ('the Tax Code'). Article 152 of the Tax Code provides:

'1. Taxable persons established in Romania in accordance with Article 125(2)(a), whose annual turnover, declared or achieved, is less than the upper limit of EUR 65 000, … or RON 220 000, may apply for exemption … in respect of the transactions referred to in Article 126(1) …

2. The turnover serving as a reference for the purposes of applying paragraph 1 shall consist of the total amount, net of tax — in the situation of taxable persons who request removal from the register of persons registered for VAT purposes — of supplies of goods and services rendered by the taxable person in the course of a calendar year that are taxable or, as appropriate, would be taxable if they were not carried out by a small undertaking, and turnover resulting from economic activities for which the place of delivery or supply is deemed to be abroad, provided the tax would be deductible if the transaction were carried out in Romania in accordance with Article 145(2)(b), and exempt transactions for which a right to deduct exists and exempt transactions for which no right to deduct exists, as referred to in Article 141(2)(a), (b), (e) and (f), where they are not ancillary to the principal activity …'

9. Point 47(3) of Hot?rârea Guvernului României nr. 44 din 22 ianuarie 2004 pentru aprobarea Normelor metodologice de aplicare a Legii nr. 571/2003 privind Codul fiscal (Decree No 44 of the Romanian Government of 22 January 2004 approving the rules for implementing Law No 571/2003 on the Tax Code), as amended and supplemented by Government Decree No 670 of 4 July 2012, states as follows:

'A transaction is ancillary to the principal activity if the following cumulative conditions are met:

(a) performing the transaction requires limited technical resources in terms of equipment and staff;

(b) the transaction is not directly connected with the principal activity of the taxable person; and

(c) the value of the purchases made for the purposes of the transaction and the amount of the deductible tax relating to the transaction are insignificant.'

III. **Facts and reference for a preliminary ruling**

10. As has already been mentioned, in addition to working as a university professor, the appellant in the main proceedings ('the appellant') practices a number of liberal professions, working as an accountant, tax consultant, insolvency practitioner and lawyer. He also occasionally receives copyright royalties.

11. In accordance with Romanian legislation, the appellant obtained a single tax registration code, for 'accounting and financial audit activities, tax consultancy', corresponding to the professions of tax consultant and accountant. For the purposes of his pursuit of those professions, the appellant declared various registered offices. The seat of the appellant's individual insolvency practitioner's office is registered at the address of a property owned by him.

12. Since 2007, the appellant has also received income from the letting of that property. The property was let to a company of which the appellant is a shareholder and director. This company has its registered office at the rented property and there carries out, inter alia, consultancy, accounting, financial audit and tax consultancy activities, having as its principal declared area of activity 'business and management consultancy activities'.

13. In 2016, the appellant was the subject of a VAT tax inspection covering the period from 1

January 2011 to 30 June 2016. Following that inspection, the tax authorities (Administra?ia Jude?ean? a Finan?elor Publice, ‘the AJFP’) found that during 2012 the appellant had exceeded the turnover ceiling of 220 000 Romanian lei (RON) (EUR 65 000) established for the application of the special exemption scheme for small enterprises and, for that reason, should have registered as a taxable person subject to VAT. Consequently, the AJFP assessed the VAT which the appellant ought to have paid in the sum of RON 95 184.

14. In determining that turnover, the AJFP took into account both the income received from the appellant’s practice of the liberal professions of tax consultant, accountant and insolvency practitioner, as well as from copyright royalties, and rental income from the jointly owned property. It did not include in its calculation either the appellant’s salary as a professor or his income from his activity as a lawyer, which are subject to specific tax regimes.

15. The AJFP found that in 2012 69% of the appellant’s total income had been obtained from his activity as insolvency practitioner, 17% from the letting of the property and 14% from his activity as accountant and tax consultant. The AJFP therefore considered that the appellant’s principal activity in that year had been that of insolvency practitioner, given the proportion of his income received from that activity by comparison with his total income. It also took the view that the letting of the property could not be classified as a ‘transaction ancillary’ to the activity of insolvency practitioner such as to exclude it from the calculation of turnover in that year.

16. The appellant’s preliminary administrative appeal against the tax assessment notice was dismissed by decision of 22 August 2017. The administrative appeal against that decision was dismissed by the Tribunalul Timi? (Regional Court, Timi?, Romania) by judgment of 26 March 2018. The appellant brought an appeal against that judgment before the referring court. The Curtea de Apel Timi?oara (Court of Appeal, Timi?oara, Romania) stayed the proceedings and referred the following three questions to the Court for a preliminary ruling pursuant to Article 267 TFEU:

1. In circumstances such as those here at issue, in which a natural person carries on an economic activity by practising several liberal professions and by letting out immovable property and thereby obtaining income of a continuous nature, do the provisions of Article 288 [first paragraph] point 4 of the VAT Directive require the identification of a particular professional activity as being the principal activity in order to verify whether the letting can be classified as an ancillary transaction thereto and, if so, on the basis of what criteria is that principal activity to be identified, or must those provisions be interpreted as meaning that all of the professional activities by which the economic activity of that natural person is carried on constitute the ‘principal activity’?

2. In the event that the immovable property let by a natural person to a third party is not intended and used for the performance of the remainder of his economic activity, so that it is not possible to establish any connection between that letting and the practice of the various professions of that person, do the provisions of Article 288 [first paragraph] point (4) of the VAT Directive permit the classification of the letting as an ‘ancillary transaction’, with the consequence that it is excluded from the calculation of the turnover which serves as a reference for the purpose of applying the special exemption scheme for small undertakings?

3. In the situation described in the second question, is it relevant to the classification of the letting transaction as ‘ancillary’ that it is for the benefit of a third party — a legal person of which the natural person is a shareholder and director — established in the property let and carrying on professional activities of the same kind as those of the natural person in question?

17. In the proceedings before the Court, the appellant, Romania and the European Commission submitted written observations.

IV. **Legal assessment**

18. By the three questions, which — as Romania rightly suggests — can be answered together, the referring court would like to know, in essence, how point 4 of the first sentence of Article 288 of the VAT Directive is to be interpreted. Specifically, it wishes to ascertain how to determine whether there are ‘real estate transactions’ which are not ‘ancillary transactions’.

19. This depends on the spirit and purpose of the exemption under Article 287 of the VAT Directive (see A below). It is necessary to clarify whether the letting of a building is a ‘real estate transaction’ (see B below) and on the basis of what criteria this is to be classified as an ‘ancillary transaction’ within the meaning of point 4 of the first sentence of Article 288 of the VAT Directive (see C below). If, applying those criteria, the letting in the case at issue is to be regarded as such an ancillary transaction (see D below), the appellant would not, in the referring court’s view, exceed the turnover limits for the exemption under Article 287 of the VAT Directive.

20. However, because the Court is also to give the referring court an answer which will be of use to it in determining the outcome of the underlying dispute, note should be taken, as the Commission asserts, of the following point: according to the order for reference, neither income from the salary as a professor nor income from the appellant’s activity as a lawyer was included in the calculation of the exemption limit for a small enterprise. This is apparently because these are subject to specific tax regimes.

21. The non-inclusion of income from employed (not independent) activity (here as a professor) is understandable from the perspective of VAT law, as there are no taxable transactions in this regard. However, as the activity of self-employed lawyer undoubtedly constitutes an independent economic activity for the purposes of Article 9(1) of the VAT Directive, that involves taxable transactions which must be factored into the calculation. It is irrelevant whether or not those transactions are subject to other taxation. The situation would be different if the appellant had received income as an employed (i.e. not independent) lawyer or the turnover was generated not by him, but by the company. As the request for a preliminary ruling is unclear on this point, this is a matter which must be verified by the national court.

A. **The spirit and purpose of the exemption under Article 287 of the VAT Directive**

22. In order to be able to assess whether the appellant can still come under the exemption for a ‘small enterprise’ (4) under Article 287 of the VAT Directive, despite the letting turnover, it is first necessary to consider the spirit and purpose of the special exemption. As it is not objectively linked to the nature of the activity, but only to a turnover limit not being reached by the taxable person, Article 287 of the VAT Directive provides for a subjective exemption.

23. As the Court has already ruled, (5) and I have stated elsewhere, (6) the purpose behind this subjective exemption resides primarily in administrative simplification.

24. Without such a limit, the tax authorities would have to treat any person who carries on even a limited economic activity for the purposes of Article 9 of the VAT Directive as a taxable person from the first euro. This would give rise to administrative expenditure not only for the taxable person but also for the tax authorities, for which there would be no corresponding tax revenue. (7) This supervisory burden and the associated expenditure for the tax authorities, without any corresponding tax revenue, is intended to be avoided by means of a *de minimis* limit. This is also

clear from the 1973 Commission proposal for a Sixth Council Directive on the harmonisation of legislation of Member States concerning turnover taxes, which expressly referred to the difficulties encountered by Member States in applying the normal VAT arrangements to small undertakings. (8)

25. The associated preferential treatment of smaller enterprises, for example the promotion of start-ups, (9) is an inevitable consequence rather than the spirit and purpose of this scheme. This is particularly evident from the relevant provision here, Article 288 of the VAT Directive, which makes clear that the *de minimis* limit laid down in Article 287 of the VAT Directive (which can be determined by the Member States) does not relate to the size of the enterprise or how long it has been present on the market, but only the amount of the expected tax revenue.

26. The relevant turnover for determining whether a ‘small enterprise’ exists includes only taxable transactions (point 1 of the first sentence of Article 288 of the VAT Directive) and certain exempt transactions (points 2 to 4) of the undertaking. The amount of the other exempt transactions can still be sufficiently high that they would not preclude an exemption of the other taxable transactions. Large hospitals are also covered, for example, provided they carry out only small taxable transactions. These taxable persons may then also treat those transactions as exempt, even though they cannot really be described in everyday language as small enterprises because of their size or as start-ups because of their longstanding market activity.

27. The fact that the exemption is not intended to promote start-ups is also shown by the domestic link in the provision. It exempts only transactions which are subject to tax domestically. Accordingly, large domestic enterprises with high taxable turnover abroad and only negligible taxable turnover domestically still fall within the scope of the exemption. Furthermore, Article 287 of the VAT Directive does not provide for a tax-free allowance, but an exemption limit. Where the limit is exceeded, all transactions from the first euro become liable to tax, whereas a tax-free allowance remains. This all-or-nothing principle is not very appropriate for promoting start-ups, as it disadvantages particularly successful start-ups compared with less successful start-ups.

28. Consequently, Article 287 of the VAT Directive serves primarily to simplify administration for the Member States.

B. **Interpretation of the criterion of ‘real estate transactions’**

29. If Article 287 of the VAT Directive constitutes a *de minimis* rule exempting smaller taxable transactions for reasons of administrative simplification, it is to be interpreted strictly. A broad interpretation is not consistent with the character of a *de minimis* rule. (10)

30. Furthermore, under point 1 of the first sentence of Article 288 of the VAT Directive, the value of supplies of goods and services, in so far as they are taxed, is included in the calculation of turnover for the application of the *de minimis* limit. This provision therefore makes expressly clear that *all* taxable transactions are to be included in the calculation.

31. The other values to be taken into account, as mentioned in points 2 to 4, can therefore refer only to exempt transactions. Otherwise, there would be no point in mentioning them separately. Points 2 and 3 of the first sentence of Article 288 of the VAT Directive also explicitly emphasise the exempt character of the transactions in question.

32. In addition, the words ‘real estate transactions’ in point 4 can only mean real estate transactions coming under the exemption laid down in Article 135(1)(j), (k) and (l) of the VAT Directive. It is therefore immaterial that, unlike for financial transactions, which are also referred to in point 4, the EU legislature does not mention those rules expressly.

33. It is not entirely clear, however, whether the expression ‘real estate transaction’ covers only exempt property trading (Article 135(1)(j) and (k) of the VAT Directive) or also exempt property letting (Article 135(1)(l) of the VAT Directive). The wording seems to suggest the former, as the other language versions tend to be transaction-related (in French ‘opérations immobilières’; in English ‘real estate transactions’). Nevertheless, even those language versions do not rule out that the letting of a property in everyday language can also be covered.

34. In view of this open-ended wording, the spirit and purpose of Article 287 of the VAT Directive, that is to say, the *de minimis* character of the small enterprise scheme, is crucial. I therefore consider that a broad interpretation must be given to the concept of the exempt real estate transactions to be taken into account and, in accordance with the view taken by the Commission, that exempt letting transactions should also be included, in order to limit the scope of Article 287 of the VAT Directive.

35. Consequently, there must have been an *exempt* letting transaction by the appellant for the question of its character as an ancillary transaction to arise at all. It is not clear from the request for a preliminary ruling whether that was the case and it is therefore a matter to be examined by the national court.

C. **Requirements for an ‘ancillary transaction’**

36. It is also necessary to clarify the requirements for an ‘ancillary transaction’ within the meaning of point 4 of the first sentence of Article 288 of the VAT Directive. The exempt transactions covered by that provision are to be included in the calculation of the exemption limit only if they are not ancillary transactions.

37. The legislature thereby ensures that the sectors covered, whose transactions are exempt in principle (banks, insurance companies and the real estate sector), cannot take advantage of the ‘small enterprise exemption’ for their taxable transactions that do not exceed the exemption limit. For them, the exempt transactions are not ancillary transactions, but principal transactions.

38. The Court has not previously determined the requirements for the existence of an ancillary transaction.

39. However, the VAT Directive uses the similar term ‘incidental transaction’ in calculating the deductible proportion in Article 174(2)(b) and (c). (11) This concerns the extent of the deduction where taxable inputs are used for both taxable and exempt outputs.

40. In that regard, the Court has already ruled (12) that an economic activity cannot be classified as an incidental transaction if it constitutes the direct, permanent and necessary extension of the business or if it entails a significant use of goods and services subject to VAT.

41. This negative delimitation can be applied to the scope of the exemption in Article 287 of the VAT Directive. Where there is a direct, permanent and necessary extension of the business, this activity shares the fate of the ‘principal activity’ and can no longer be regarded as an incidental transaction or even as an ancillary transaction. There is simply no objective reason to treat those transactions separately.

42. In a decision concerning Article 174(2) of the VAT Directive, furthermore, the Court also ruled that the scale of the turnover generated may be an indication that those transactions should not be regarded as incidental. However, the fact that income greater than that produced by the activity stated to be its main activity by the enterprise concerned is generated by such transactions is not sufficient to preclude their classification as ‘incidental transactions’ within the meaning of that provision. (13)

43. This statement may be true of Article 174(2) of the VAT Directive and the deductible proportion, but not of an exemption for reasons of administrative simplification (*de minimis* rule). The former concerns the apportionment of the tax paid on inputs according to outputs (a proportion is necessary for that purpose). The latter, on the other hand, determines when an exemption should cease to apply because a turnover limit constituting a mere *de minimis* limit (with regard to the spirit and purpose, see above, point 22 et seq.) has been exceeded.

44. The value of the supposed ancillary transactions has considerable importance for such an exemption. In my view, exempt real estate transactions whose value, for example, exceeds the exemption limit in Article 287 can never therefore be ancillary transactions of a ‘small enterprise’ because they are not sufficiently minimal.

45. The idea behind point 4 of the first sentence of Article 288 of the VAT Directive seems to be that the exemption of an enterprise for reasons of administrative simplification is not intended to be disapplied as a result of more or less arbitrary, in particular non-recurring, exempt real estate transactions beyond the actual object of the enterprise which do not affect the amount of tax revenue.

46. In the Commission proposal from 1973 it is stated that ‘unusual transactions which may make drastic changes in the turnover within one year’ and transactions which ‘do not indicate the actual size of the undertaking’ are to be disregarded. (14) This is confirmed by the second sentence of Article 288 of the VAT Directive. That provision expressly excludes the disposal of capital assets of an undertaking from the calculation of the turnover limit.

47. The underlying reason is presumably to prevent a difference in VAT treatment arising between exempt taxable persons (that is to say, ‘small enterprises’) (one remains an exempt small business, the other loses that status) because of such ‘exceptional’ transactions.

48. An example would appear to be the long-term letting of private property. If point 4 of the first sentence of Article 288 of the VAT Directive did not exclude that turnover from the calculation, one enterprise would have to pay tax on the entire annual turnover from the remainder of its activity. On the other hand, a comparable enterprise which does not let private property could still benefit from the exemption. The more or less arbitrary factor of the use of other assets does not influence the fundamental status as ‘small enterprises’ in competition with each other. There is not a sufficient link to the actual economic activity of the ‘small enterprise’. Accordingly, the existence of ancillary transactions is a matter of evaluative apportionment. (15)

49. In my view, the concept of ancillary transaction therefore covers only transactions which do not have any close link to the (actual) taxable activity of the taxable person. There is no such link if

they either (1) constitute non-recurring, exceptional acts beyond the actual object of the enterprise or (2) do not entail a significant use of goods and services within the enterprise, but are to be considered as separate from it and are only *de minimis* (the minimal letting of private property — see point 44 — would be conceivable, for example).

D. **Application to the case at issue**

50. In the case at issue, it must therefore be clarified whether the letting of the property in which the appellant carries on economic activity as an insolvency practitioner does not have any close link to the appellant's actual taxable activity.

51. This seems doubtful. In the present case, the letting of the property is neither arbitrary nor separate from the appellant's actual taxable (consultancy) activity. First, he uses the property himself as the registered office for his taxable activity as an insolvency practitioner. There is thus no letting independent of the business activity.

52. Second, according to the referring court, the appellant lets the property to a company of which he is himself a shareholder and director and for which he also does consultancy work. That is not a non-recurring act that is not intended to distort the calculation of annual turnover (see point 45 above). Rather, there is a strong link (see point 48 above) to the appellant's actual taxable (consultancy) activity.

53. It would therefore seem that, on account of the close material and personal link, it cannot now be claimed that there is a minimal activity beyond the appellant's actual economic activity (consultancy), in accordance with the view taken by the Commission and Romania.

54. However, the Court has jurisdiction primarily for the interpretation of EU law. The application of the abovementioned principles of interpretation and the associated evaluative apportionment is a task to be carried out by the referring court.

V. **Conclusion**

55. I therefore propose that the Court answer the questions referred by the Curtea de Apel Timi?oara (Court of Appeal, Timi?oara, Romania) as follows:

The concept of real estate transactions, which are ancillary transactions, covers all exempt transactions within the meaning of Article 135(1)(j), (k) and (l) of Directive 2006/112/EC which do not have any close link to the enterprise's (actual) taxable activity and are minimal, that is to say, they do not themselves exceed the exemption limit. There is no close link if they either constitute non-recurring acts beyond the actual object of the enterprise or do not entail a significant use of the enterprise's goods and services.

1 Original language: German.

2 OJ 2006 L 347, p. 1, in the version applicable to 2012.

3 Council Implementing Decision authorising Romania to introduce a special measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax (2012/181/EU), OJ 2012 L 92, p. 26.

4 See the heading of Chapter 1 of Title XII (Special scheme for small enterprises).

5 Judgments of 2 May 2019, *Jarmuškien?* (C?265/18, EU:C:2019:348, end of paragraph 37), and of 26 October 2010, *Schmelz* (C?97/09, EU:C:2010:632, paragraph 63).

6 Opinion in *Schmelz* (C?97/09, EU:C:2010:354, end of point 33).

7 As is also expressly held in the judgment of 2 May 2019, *Jarmuškien?* (C?265/18, EU:C:2019:348, paragraph 38).

8 See the Explanatory note at Article 25 (small undertakings) on p. 29 of the Commission proposal of 20 June 1973, COM(73) 950 final.

9 See judgments of 29 July 2019, *B* (turnover of a second-hand car dealer) (C?388/18, EU:C:2019:642, paragraph 42 and the case-law cited); and of 26 October 2010, *Schmelz* (C?97/09, EU:C:2010:632, paragraphs 63 and 70); and my Opinion in *Schmelz* (C?97/09, EU:C:2010:354, points 33 and 54).

10 Judgment of 2 May 2019, *Jarmuškien?* (C?265/18, EU:C:2019:348, paragraph 27). Similarly, the Court has held that any exception to or derogation from a general rule is to be interpreted strictly; see, for example, judgment of 28 September 2006, *Commission* v *Austria* (C?128/05, EU:C:2006:612, paragraph 22).

11 In the French version the two terms are even identical (*charactère d'opérations accessoires*). The same applies to the Romanian version (*opera?iuni accesorii*). That is not true, however, of the German (*Nebenumsatz* vs. *Hilfsumsatz*) and English (ancillary transactions vs. incidental transactions) versions.

12 Judgment of 29 October 2009, *NCC Construction Danmark* (C?174/08, EU:C:2009:669, paragraph 31), citing judgment of 29 April 2004, *EDM* (C?77/01, EU:C:2004:243, paragraph 66), and judgment of 11 July 1996, *Régie dauphinoise* (C?306/94, EU:C:1996:290, paragraph 22).

13 Judgment of 29 April 2004, *EDM* (C?77/01, EU:C:2004:243, paragraph 77).

14 Explanatory note at Article 25 (small undertakings) on p. 29 of the Commission proposal of 20 June 1973, COM(73) 950 final.

15 See Stadie, H., in Rau/Dürrwächter, *UStG*, § 19, note 112 (as at 183rd update — July 2019).