3. If Question 2 is answered affirmatively: can the requirements laid down in the directive relating to fair compensation for exceptions or limitations to the right of reproduction under Article 5(2) and (3) of the directive, having regard to the fundamental right to equal treatment under Article 20 of the EU Charter of Fundamental rights, be fulfilled also where the appropriate reward must be paid not by the manufacturers, importers and traders of the printers but by the manufacturers, importers and traders of another device or several other devices of a chain of devices capable of making the relevant reproductions?

(1) OJ 2001 L 167, p. 10.

Reference for a preliminary ruling from the Tribunal Central Administrativo Sul (Portugal) lodged on 26 September 2011 — Portugal Telecom SGPS, SA v Fazenda Pública

(Case C-496/11)

(2011/C 362/19)

Language of the case: Portuguese

Referring court

Tribunal Central Administrativo Sul

Parties to the main proceedings

Appellant: Portugal Telecom SGPS, SA

Respondent: Fazenda Pública

Intervening party: Ministério Público

Questions referred

(a) Is Article 17(2) of Sixth Council Directive 77/388/EEC (1) of 17 May 1977 concerning VAT to be interpreted as precluding the Portuguese tax authorities from requiring the appellant, a holding company, to use the pro rata deduction method for all the VAT incurred in its inputs, on the basis of the fact that the main corporate purpose of that company is the management of shareholdings of other companies, even when such inputs (acquired services) have a direct, immediate and unequivocal relationship with taxable transactions — supplies of services — which are carried out downstream in the context of the complementary activity of supplying legally permitted, technical management services?

(b) May a body that has the status of a holding company and is subject to VAT on the acquisition of goods and services that are thereupon wholly transmitted to companies in which it has a holding, with payment of the VAT, when that institution combines the main activity it carries out (management of shareholdings) with an accessory activity (supply of technical administration and management services), deduct all the tax incurred in respect of those acquisitions by applying the method of deduction based on actual use set out in Article 17(2) of the Sixth Directive?

(1) 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).

Appeal brought on 29 September 2011 by Kone Oyj, Kone GmbH, Kone BV against the judgment of the General Court (Eighth Chamber) delivered on 13 July 2011 in Case T-151/07: Kone Oyj, Kone GmbH, Kone BV v European Commission

(Case C-510/11 P)

(2011/C 362/20)

Language of the case: English

Parties

Appellants: Kone Oyj, Kone GmbH, Kone BV (represented by: T. Vinje, Solicitor, D. Paemen, Advocaat, A. Tomtsis, Dikigoros, A. Morfey, Solicitor)

Other party to the proceedings: European Commission

Form of order sought

The appellants claim that the Court should:

— set aside in whole the Judgment of the General Court;

— annul Article 2(2) of the Decision in so far as it imposes a fine on Kone Oyj and Kone GmbH, and impose either no fine or a fine at a lower amount than determined in the 21 February 2007 Decision of the Commission relating to a proceeding under Article 101 TFEU (Case COMP/E-1/38.823 — PO/Elevators and Escalators) (the 'Decision');

— annul Article 2(4) of the Commission Decision in so far as it imposes a fine on Kone Oyj and Kone BV, and set the fine at a lower amount than determined in the Commission Decision; and

— order the Commission to bear the costs.