Reports of Cases

JUDGMENT OF THE COURT (First Chamber)

23 October 2025 *

(Reference for a preliminary ruling – Taxation – Common system of value added tax (VAT) – Directive 2006/112/EC – Taxable transactions – Exemption relating to the granting of credit – Article 135(1)(b) – Exemption relating to financial transactions – Debt collection – Article 135(1)(d) – Trade factoring – Invoice factoring)

In Case C-232/24 [Kosmiro], [i]

REQUEST for a preliminary ruling under Article 267 TFEU from the Korkein hallinto-oikeus (Supreme Administrative Court, Finland), made by decision of 22 March 2024, received at the Court on 27 March 2024, in the proceedings brought by

A Oy,

intervening party:

Veronsaajien oikeudenvalvontayksikkö,

THE COURT (First Chamber),

composed of F. Biltgen, President of the Chamber, T. von Danwitz, Vice-President of the Court, acting as Judge of the First Chamber, I. Ziemele, A. Kumin and S. Gervasoni (Rapporteur), Judges,

Advocate General: A. Rantos,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

– A Oy, by H. Jovio, asianajaja,

– the Finnish Government, by A. Laine, acting as Agent,

– the European Commission, by P. Carlin and T. Sevón, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 3 April 2025,

* Language of the case: Finnish.

[i] The name of the present case is fictitious. It does not correspond to the real name of any of the parties to the proceedings.

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Article 2(1)(c), Article 9(1) and Article 135(1)(b) and (d) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1; 'the VAT Directive').

2 The request has been made in proceedings relating to the treatment for value added tax (VAT) purposes of various fees and commissions charged by the company A Oy, the applicant in the main proceedings in connection with factoring activities carried out by it.

Legal context

European Union law

3 Article 1(2) of the VAT Directive stipulates:

'The principle of the common system of VAT entails the application to goods and services of a general tax on consumption exactly proportional to the price of the goods and services, however many transactions take place in the production and distribution process before the stage at which the tax is charged.

On each transaction, VAT, calculated on the price of the goods or services at the rate applicable to such goods or services, shall be chargeable after deduction of the amount of VAT borne directly by the various cost components.

…'

4 Article 2 of that directive provides:

'(1) The following transactions shall be subject to VAT:

…

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

…'

5 Under Article 9 of that directive:

'(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 is to be regarded as an economic activity.

…’

6 Article 135(1) of the VAT Directive reads as follows:

‘Member States shall exempt the following transactions:

…

(b) the granting and the negotiation of credit and the management of credit by the person granting it;

…

(d) transactions, including negotiation, concerning deposit and current accounts, payments, transfers, debts, cheques and other negotiable instruments, but excluding debt collection;

…’

Finnish law

7 Point 1 of the first subparagraph of Paragraph 1 of the arvonlisäverolaki (1501/1993) (Law on value added tax (1501/1993)) of 30 December 1993 (‘the Law on VAT’) provides:

‘VAT shall be levied for the benefit of the State in accordance with the rules laid down in this Law:

(1) on the sale of goods or services that takes place in Finland in the course of business.’

8 Under the second subparagraph of Paragraph 18 of that law:

‘Sale of a service means the supply or other transfer of a service for consideration.’

9 Paragraph 41 of that law states:

‘VAT shall not be payable on the sale of a financial service.’

10 Points 2 and 3 of the first subparagraph of Paragraph 42 of the Law on VAT provides:

‘The following shall be regarded as financial services:

…

(2) the granting of credit and any other financing arrangements;

(3) the management of credit by the person granting it.’

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

11 The applicant in the main proceedings is a Finnish company which provides factoring services. Its clients call on it to provide immediate access to funds corresponding to debts not yet due while transferring responsibility for the corresponding collection operations to it. The debts which are the subject of factoring are uncontested debts.

12 The applicant in the main proceedings carries out, first, invoice factoring, which takes the form of credit granted to its clients and corresponds to invoiced debts, up to a limit of a total amount determined on the basis of the level of risk presented by the activity of those clients. In that context, the applicant in the main proceedings is responsible for payment reminders and for the extrajudicial collection of the debts assigned to it. Second, it offers trade factoring services, in the form of the purchase from its clients of selected invoices, up to a maximum amount, defined on the basis of an assessment of the risk posed by the activity of those clients. The Korkein hallinto-oikeus (Supreme Administrative Court, Finland), which is the referring court, states that, unlike invoice factoring, in which the default risk continues to be borne by the client, trade factoring involves the assignment of the debts to the factor and therefore the transfer of the risk of payment default to the factor.

13 The contracts between the applicant in the main proceedings and its clients provide that it is to collect various fees and commissions from them, including a 'factoring commission', which is paid in advance and represents a percentage of each debt. The level of that commission increases the lower the credit rating of the client and the persons in respect of whom it holds the debts concerned, on the one hand, and, on the other hand, the longer the invoice payment term. 'Arrangement fees' and various other expenses and fees are added to that commission.

14 The Keskusverolautakunta (Central Tax Authority, Finland) sent the applicant in the main proceedings an advance tax ruling covering the period from 25 October 2022 to 31 December 2023, stating that the commissions and fees received by the applicant in respect of its invoice and trade factoring were subject to VAT in so far as they constituted consideration for a service entailing management and debt collection in respect of invoices. That tax authority, by contrast, took the view that the factoring commission and various other costs and fees constituted in part consideration for a VAT-exempt financial service.

15 More specifically, the Central Tax Authority took the view that, since the applicant in the main proceedings manages invoice debts, monitors the payments made in that respect and assumes responsibility for the debt recovery, invoice factoring and trade factoring both constitute services subject to VAT. However, in so far as the applicant in the main proceedings provides financing to its clients within a customised limit, that authority took the view that certain costs and fees, including the factoring fee, were paid by way of consideration for a tax-free financial service relating to the granting of credit, and that the arrangement fees had, for their part, to be split into a part subject to VAT and a part exempt from VAT, corresponding to setting up and activating the financial arrangements guaranteed by debts in respect of invoices.

16 The applicant in the main proceedings brought an action before the referring court seeking the partial annulment of that ruling, taking the view that the factoring commission and the other expenses and fees were, in their entirety, subject to VAT. At most, in its view, only the 'underwriting fee', which represents a percentage of the finance limit that may be made available to each client, can constitute consideration for a VAT-exempt financial service.

17 That court states that, according to the applicant in the main proceedings, trade factoring cannot be treated in the same way as the granting of credit since, in that context, the factor purchases debts from its clients, with the result that they have no further debt with regard to it and the contract between them and the applicant in the main proceedings is performed in full.

18 For its part, the referring court takes the view that invoice factoring must be regarded as a supply of services for consideration falling within the scope of the VAT Directive. However, that court has doubts as to how the various fees and commissions charged for the service provided must be treated in the light of that tax.

19 As regards commissions and fees relating to trade factoring, the referring court asks in particular whether a trader carrying out such an activity must be regarded at the same time as selling to its client services which fall within the scope of the VAT Directive.

20 In the light of the judgments of 26 June 2003, *MKG-Kraftfahrzeuge-Factoring* (C-305/01, EU:C:2003:377), and of 27 October 2011, *GFKL Financial Services* (C-93/10, EU:C:2011:700), the referring court asks, more specifically, what conclusions must be drawn from the fact that the case before it does not concern outstanding debts but debts which are due, and from whether a particular fee was specifically agreed between the parties or whether that fee was directly taken into account in the purchase price of the debts. It notes that the fact that the factoring commission depends on the payment term of the invoiced debts could lead to the conclusion that that commission partly constitutes interest and, on that basis, it constitutes consideration for a financial service. Alternatively, that commission could be regarded as an adjustment designed to adapt the purchase price of the debt to its real economic value.

21 The referring court also draws the Court's attention to the fact that, in the case of trade factoring, the ownership of the claims is transferred, together with the default risk, to the assignee company, in the present case the applicant in the main proceedings, after which it no longer receives interest or other payment from the client from which it acquired the debt.

22 According to that court, factoring could constitute a financing service consisting partly of the granting of credit, since that service is not linked to the service of managing or collecting debts that is subject to VAT to the point of constituting a single and indivisible supply. That is true, in particular, in the case of invoice factoring.

23 The referring court states that Finnish law, namely point (2) of the first subparagraph of Paragraph 42 of the Law on VAT, states that not only the granting of credit but also other financing arrangements are to be regarded as exempt from that tax, whereas the latter are not referred to in the VAT Directive.

24 It follows that, if the exemption relating to the granting of credit provided for by the VAT Directive were to be interpreted as not applying to the commissions and fees at issue in the present case, the referring court considers that it might not be possible to interpret the national law in conformity with that directive. In that event, it would have to determine whether the relevant provisions of that directive have direct effect.

25 Lastly, that court states that its order for reference concerns only the factoring commission and arrangement fees, since the analysis of the VAT treatment of those sums is sufficient to enable it to determine how the other costs and fees at issue should be treated.

26 In those circumstances, the Korkein hallinto-oikeus (Supreme Administrative Court) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

‘(1) Where a factoring company acquires from a client invoiced debts not yet due so that the default risk relating to those debts is transferred from that client to that company (factoring taking the form of a sale of debts, “trade factoring”):
(a) is the factoring commission which is charged by that company consisting of a percentage of each invoiced debt covered by the agreement, to be regarded as an adjustment to the purchase price of the acquisition of the debts or as another item outside the scope of the VAT Directive, or
(b) are [Article 2(1)(c) and Article] 9 of the VAT Directive to be interpreted as meaning that that same company provides its client, in return for the factoring commission referred to in question 1(a) above, with a supply of services for reward falling within the scope of the VAT Directive?

(2) Is the fixed arrangement fee which is charged to the client for setting up and activating the factoring arrangement in the context of trade factoring to be regarded as a consideration for the supply to the client of a service falling within the scope of the VAT Directive?

(3) Where the fees referred to in questions 1 and 2 above which are charged in the context of trade factoring are to be regarded as a consideration for a supply of services falling within the scope of the VAT Directive:
(a) is Article 135(1)(b) of the VAT Directive, relating to the granting of credit, or Article 135(1)(d) of that directive, relating to transactions concerning payments or debts, to be interpreted as meaning that the factoring commission or the arrangement fee charged to the client are to be regarded as consideration for the supply of a tax-exempt service, or
(b) is Article 135(1)(d) of the VAT Directive to be interpreted as meaning that it is the consideration for debt collection, which is to be regarded as a taxable supply of services, or the consideration for another taxable service?

(4) Where a factoring company finances its client by granting it credit so that that client’s invoiced debts [are] used as collateral for the finance provided by that company (factoring taking the form of financing guaranteed by invoices, “invoice factoring”):
(a) is Article 135(1)(b) of the VAT Directive, relating to the granting of credit, or Article 135(1)(d) of that directive, relating to transactions concerning payments or debts, to be interpreted as meaning that the factoring commission charged to the client, consisting of a percentage of each invoiced debt covered by the agreement, and the fixed arrangement fee for setting up and activating the factoring agreement must be regarded, at least in part, as a consideration for the supply of a tax-exempt service, or
(b) is Article 135(1)(d) of the VAT Directive to be interpreted as meaning that it is the consideration for debt collection, which is to be regarded as a taxable supply of services, or the consideration for another taxable service?

(5) If the factoring commission or arrangement fee charged in the context of trade factoring or invoice factoring is to be wholly regarded, on the basis of the answer to [the third and fourth questions], as the consideration for a taxable service, is the taxation of that service in application of the VAT Directive so clear and unconditional such that, where the taxable

person so requests, that taxation be recognised as having direct effect even though the exemption from VAT provided for by the national VAT law covers, besides the granting of credit, other financing arrangements?'

Consideration of the questions referred

The first and second questions

27 By its first and second questions, which it is appropriate to examine together, the referring court asks, in essence, whether Article 2(1)(c) and Article 9(1) of the VAT Directive must be interpreted as meaning that, as regards trade factoring, in the context of which the factor relieves the client of debt recovery operations and of the risk of the debts not being paid, the factoring commission and the arrangement fee paid by the client must be regarded as remunerating a supply of services falling within the scope of that directive.

28 It must be recalled, first of all, that the VAT Directive establishes a common system of VAT based on, inter alia, a uniform definition of taxable transactions (judgment of 7 November 2024, *Lomoco Development and Others*, C-594/23, EU:C:2024:942, paragraph 33 and the case-law cited).

29 Under Article 2(1)(c) of the VAT Directive, the supply of services for consideration by a taxable person acting as such is to be subject to VAT.

30 Article 9(1) of the VAT Directive attributes a very wide scope to VAT, by giving the concept of 'taxable person' a broad definition focused on independence in the exercise of an 'economic activity', which is itself defined broadly, in the second subparagraph of Article 9(1) of that directive, as comprising all activities of producers, traders and persons supplying services and, in particular, the exploitation of tangible or intangible property for the purpose of obtaining income therefrom on a continuing basis. It is the existence of such an activity which establishes the status of 'taxable person' (judgment of 3 April 2025, *Grzera*, C-213/24, EU:C:2025:238, paragraph 18 and the case-law cited).

31 Furthermore, according to the case-law of the Court, a supply of services is carried out for consideration, within the meaning of Article 2(1)(c) of the VAT Directive, and is therefore subject to VAT only if there exists between the service supplier and the recipient a legal relationship in which there is reciprocal performance, the remuneration received by the provider of the service constituting the value actually given in return for the service supplied to the recipient (judgments of 11 July 2024, *Finanzamt T II*, C-184/23, EU:C:2024:599, paragraph 30, and of 28 November 2024, *rhtb*, C-622/23, EU:C:2024:994, paragraph 16 and the case-law cited).

32 In interpreting the provisions 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 (OJ 1977 L 145, p. 1), worded in terms substantially identical to those of Article 2(1)(c) of the VAT Directive, the Court has already held, on grounds which are capable of being applied to the VAT Directive, that a true factoring activity, taking the form of purchase by the factor of debts owed to his client without enjoying a right of recourse against that client, in a situation where the relationship between the factor and the client is governed by a contract under which there is reciprocal performance consisting for the factor, in relieving the client of the debt recovery operations and of the risk of the debts not being paid and, for the client, in return for the service received by him in making a payment corresponding

to the difference between the face value of the debts which he or she has assigned to the factor and the amount paid by the factor for the purchase of those debts, constitutes a supply of services for consideration (see, to that effect, judgment of 26 June 2003, *MKG-Kraftfahrzeuge-Factoring*, C-305/01, EU:C:2003:377, paragraphs 48 and 49).

33 Since trade factoring such as that at issue in the main proceedings has, in essence, the same characteristics as the 'true' factoring described in the preceding paragraph of the present judgment, it must be held that services supplied in that context constitute the supply of services for consideration within the meaning of Article 2(1)(c) of the VAT Directive.

34 The judgment of 27 October 2011, *GFKL Financial Services* (C-93/10, EU:C:2011:700) cannot call that finding into question. In paragraph 26 of that judgment, the Court held that an individual sale of mature but defaulted debts, the price of which reflected not the remuneration for a service provided but the actual economic value of those debts, which had fallen below their face value, did not fall within the scope of VAT. By contrast, trade factoring activity such as that at issue in the main proceedings concerns debts which are not due, in respect of which there is nothing a priori to suggest that they will not be repaid in full by the debtors, and is characterised by the provision of a service consisting, for the assignee, in assuming responsibility for collection and the risk associated with those debts in return for the payment of remuneration by the assignor.

35 Nor can such an activity of trade factoring be treated in the same way as a mere transaction involving the acquisition and holding of shares outside the scope of application of VAT, since the factor does not act as the passive owner of the debts purchased but does indeed provide his or her client with a service consisting in the assumption, for remuneration, of the risk of default by the debtor (see, to that effect, judgment of 20 June 1991, *Polysar Investments Netherlands*, C-60/90, EU:C:1991:268, paragraph 13).

36 As regards the question whether, in the context of trade factoring such as that at issue in the main proceedings, the factoring commission and the arrangement fees paid to the factor by its client constitute the value actually given in return for the services falling within the scope of the VAT Directive, it should be noted, in the first place, that it is apparent from the order for reference that the factoring commission represents a percentage of the amount of the debts, the level of which depends not on the assessment, as such, of the economic value of those debts but on the credit rating attributed to them and the length of the remaining payment term.

37 In view of those characteristics, it does not appear that such a commission corresponds to an adjustment of the purchase price of the debts to their real economic value. Rather, that commission must be regarded as consideration for the debt collection service provided by the factor to the client, the value of which increases the longer the payment term and the greater the level of risk assumed by the factor.

38 It must be noted, in the second place, that it is apparent from the order for reference that the arrangement fees correspond to a flat-rate fee paid by the client for setting up the factoring process, covering, inter alia, the cost of procedures relating to compliance with obligations arising from the applicable legislation on money laundering. Such fees must therefore be regarded as consideration for the setting up and activation of the service supplied by the factor.

39 Subject to the verifications to be carried out by the referring court, it must therefore be held that the factoring commission and the arrangement fees paid to the factor by its client in the context of a trade factoring activity must be regarded as constituting the value actually given in return for the service supplied and, consequently, fall within the scope of the VAT Directive.

40 In the light of the foregoing, the answer to the first and second questions is that Article 2(1)(c) and Article 9(1) of the VAT Directive must be interpreted as meaning that, as regards trade factoring, in the context of which the factor relieves the client of debt recovery operations and of the risk of the debts not being paid,

– the factoring commission paid for a debt collection service the value of which increases the longer the payment term and the greater the level of risk assumed by the factor and

– the arrangement fees paid by the client, which correspond to the flat-rate amount paid in order to set up the factoring process and which cover, inter alia, the cost of procedures relating to compliance with the obligations arising from the applicable legislation on money laundering,

constitute the value actually given in return for the supply of services falling within the scope of that directive.

The third and fourth questions

41 By its third and fourth questions, which it is appropriate to examine together, the referring court asks, in essence, whether Article 135(1)(b) and (d) of the VAT Directive must be interpreted as meaning that the factoring commission and the arrangement fees paid by the client and received by the factor in the context of a trade factoring activity constitute consideration for a single and indivisible debt collection service that is subject to VAT, or whether they must, at least in part, be regarded as remuneration for a service exempt from VAT relating to the granting of credit.

42 Under Article 135(1)(b) of the VAT Directive, the granting and the negotiation of credit and the management of credit by the person granting it are exempt from VAT.

43 The granting of credit, within the meaning of that provision, consists, inter alia, in the provision of capital against remuneration (judgment of 6 October 2022, *O. Fundusz Inwestycyjny Zamknięty reprezentowany przez O*, C-250/21, EU:C:2022:757, paragraph 33 and the case-law cited).

44 Article 135(1)(d) of that directive, for its part, provides that transactions, including negotiation, concerning deposit and current accounts, payments, transfers, debts, cheques and other negotiable instruments, but excluding debt collection are also exempt from VAT.

45 According to the Court's settled case-law, the exemptions referred to in Article 135(1) of the VAT Directive constitute autonomous concepts of EU law which are intended to avoid divergences in the application of the VAT system of one Member State to another (judgment of 6 October 2022, *O. Fundusz Inwestycyjny Zamknięty reprezentowany przez O*, C-250/21, EU:C:2022:757, paragraph 30 and the case-law cited).

46 It is also apparent from the Court's settled case-law that the terms used to specify the exemptions provided for in that article are to be interpreted strictly, since they constitute exceptions to the general principle that that tax is to be levied on all services supplied for consideration by a taxable person (judgment of 6 October 2022, *O. Fundusz Inwestycyjny Zamknięty reprezentowany przez O*, C-250/21, EU:C:2022:757, paragraph 31 and the case-law cited).

47 However, the interpretation of the terms of those exemptions must be consistent with the objectives pursued by those exemptions and comply with the requirement of fiscal neutrality inherent in the common system of VAT (judgment of 6 October 2022, *O. Fundusz Inwestycyjny Zamknięty reprezentowany przez O*, C-250/21, EU:C:2022:757, paragraph 32 and the case-law cited).

48 In the absence of a definition of the concept of 'debt collection' in the VAT Directive, contained in Article 135(1)(d) of that directive, it is necessary to view that concept in its context and to interpret it in the light of the spirit thereof and, more generally, of the scheme of that directive (see, to that effect, judgment of 28 October 2010, *Axa UK*, C-175/09, EU:C:2010:646, paragraph 29 and the case-law cited).

49 In that regard, although, as recalled in paragraph 46 of the present judgment, the exemptions referred to in Article 135(1) of the VAT Directive, which derogate from the general application of that tax, are to be interpreted strictly, the concept of 'debt collection', as an exception to such a provision derogating from the application of VAT, with the consequence that the transactions which it covers are subject to taxation in accordance with the fundamental rule forming the basis of the VAT Directive, must, for its part, be interpreted broadly (see, to that effect, judgment of 28 October 2010, *Axa UK*, C-175/09, EU:C:2010:646, paragraph 30 and the case-law cited).

50 According to the case-law, the concept of 'debt collection', within the meaning of Article 135(1)(d) of the VAT Directive, refers to financial transactions designed to obtain payment of a pecuniary debt (judgment of 28 October 2010, *Axa UK*, C-175/09, EU:C:2010:646, paragraph 31 and the case-law cited).

51 The Court has stated that that concept must be interpreted as encompassing all forms of factoring, irrespective of the manner in which they are carried out, given that, by its objective nature, the essential purpose of factoring is the recovery and collection of debts owed by a third party. There is no reason to justify different treatment, for VAT purposes, between 'true' factoring and 'quasi-factoring' since, in both cases, the factor makes supplies to the client for consideration and accordingly pursues an economic activity (see, to that effect, judgment of 26 June 2003, *MKG-Kraftfahrzeuge-Factoring*, C-305/01, EU:C:2003:377, paragraphs 76 and 77).

52 As recalled in paragraph 33 of the present judgment, trade factoring such as that at issue in the main proceedings has the same characteristics as the 'true' factoring which was at issue in the case giving rise to the judgment of 26 June 2003, *MKG-Kraftfahrzeuge-Factoring* (C-305/01, EU:C:2003:377). As was held in that judgment, such an activity must be regarded as falling within the concept of 'debt collection' contained in Article 135(1)(d) of the VAT Directive.

53 The same applies to invoice factoring as carried out by the applicant in the main proceedings. Since the Court held, in the judgment of 26 June 2003, *MKG-Kraftfahrzeuge-Factoring* (C-305/01, EU:C:2003:377), that 'quasi-factoring' must be regarded as falling within the concept of 'debt collection', invoice factoring, which differs from trade factoring only by the fact that the

debts held by the client are not transferred to the factor but used as security for the financing provided by the factor to the client, the factor taking responsibility for the remainder of the recovery and collection of those debts, must also be regarded as falling within that concept.

54 However, in order to answer the questions raised by the referring court, it is still necessary to determine whether the factoring commission and the arrangement fees constitute consideration for a single and indivisible supply of debt collection subject to VAT, or whether they remunerate in part a separate supply of credit, covered by the VAT exemption laid down in Article 135(1)(b) of the VAT Directive.

55 In that regard, it is clear from the Court's case-law that, where a transaction comprises a bundle of elements and acts, regard must be had to all the circumstances in which the transaction in question takes place in order to determine whether that operation gives rise, for the purposes of VAT, to two or more distinct supplies or to one single supply (judgment of 4 September 2019, *KPC Herning*, C-71/18, EU:C:2019:660, paragraph 35).

56 The Court has also held, first, that it follows from the second subparagraph of Article 1(2) of the VAT Directive that every transaction must normally be regarded as distinct and independent and, second, that a transaction which comprises a single supply from an economic point of view should not be artificially split, so as not to distort the functioning of the VAT system (judgment of 4 September 2019, *KPC Herning*, C-71/18, EU:C:2019:660, paragraph 36).

57 Accordingly, in certain circumstances, several formally distinct services, which could be supplied separately and thus give rise, separately, to taxation or exemption, must be considered to be a single transaction when they are not independent (judgment of 4 September 2019, *KPC Herning*, C-71/18, EU:C:2019:660, paragraph 37).

58 In that regard, it is apparent from the case-law of the Court that a supply must be regarded as a single supply where two or more elements or acts supplied by the taxable person are so closely linked that they form, objectively, a single, indivisible economic supply, which it would be artificial to split. That is also the case where one or more supplies constitute a principal supply and the other supply or supplies constitute one or more ancillary supplies which share the tax treatment of the principal supply. In particular, a supply must be regarded as ancillary to a principal supply if it does not constitute, for customers, an end in itself but a means of better enjoying the principal service supplied (judgment of 4 September 2019, *KPC Herning*, C-71/18, EU:C:2019:660, paragraph 38).

59 In order to determine whether the services supplied constitute independent services or a single service, it is necessary to examine the characteristic elements of the transaction concerned. However, there is no absolute rule for determining the extent of a service for VAT purposes and in order to do this, all the circumstances in which the transaction concerned takes place must, therefore, be taken into account (judgment of 4 September 2019, *KPC Herning*, C-71/18, EU:C:2019:660, paragraph 39 and the case-law cited). The Court also takes into account the economic objective thus pursued and the interests of the recipients of the supplies (see, to that effect, judgment of 17 December 2020, *Franck*, C-801/19, EU:C:2020:1049, paragraph 26 and the case-law cited).

60 In that regard, it should be noted that, from the point of view of both the client and the factor, a supply of factoring services constitutes, in principle, a single economic transaction, the main purpose of which is to enable the client to transfer responsibility to a third party for the recovery and collection of its debts, which it would be artificial to split.

61 In addition, as regards, more specifically, trade factoring, the funds paid by the factor to its client do not correspond to a loan which the latter would have to repay, but constitute consideration for the final sale of debts, with the result that there is no credit relationship between the factor and the client. Consequently, the factoring commission and the arrangement fees paid in that context cannot be regarded as remunerating a supply of credit covered by the exemption provided for in Article 135(1)(b) of the VAT Directive, but constitute, in the light of the considerations set out in paragraphs 32, 33, 38 and 39 of the present judgment, consideration for taxable debt collection services, within the meaning of Article 135(1)(d) of that directive.

62 As regards invoice factoring, while it entails the provision of funds by the factor to its client, in return for security consisting of debts in respect of invoices not yet due, it has been observed in paragraph 53 of the present judgment that, otherwise, the factor is responsible for the recovery and collection of the debts, which, according to the case-law referred to in paragraph 51 of the present judgment, constitutes the essential aim of factoring.

63 Moreover, although, in the context of the provision of that service, the recovery of debts by the factor is accompanied by the provision, by the factor to its client, of financing corresponding to the amount of the debts offered as security, it does not appear that such financing is, in practice, provided by the factor independently of the debt collection service, of which it is the corollary.

64 It is true that the Court has already acknowledged that the concept of the granting of credit, within the meaning of Article 135(1)(b) of the VAT Directive, is not limited solely to loans and credit granted by banking and financial institutions, and that it does not exclude forms of remuneration other than the payment of interest (see, to that effect, judgment of 15 May 2019, *Vega International Car Transport and Logistic*, C-235/18, EU:C:2019:412, paragraphs 44, 45, 47 and 48 and the case-law cited). It has also held that that provision applies to a transaction which consists in the making available of funds obtained from a factoring company by one taxable person to another taxable person, for remuneration, following the transmission to the latter of a bill of exchange issued by the second taxable person, the first taxable person guaranteeing the repayment to the factoring company of that bill of exchange at its maturity (judgment of 17 December 2020, *Franck*, C-801/19, EU:C:2020:1049, paragraph 53).

65 The fact remains that the solution adopted in the judgment of 17 December 2020, *Franck* (C-801/19, EU:C:2020:1049), cannot be applied in the present case, since, in particular, that judgment concerned the particular configuration of a tripartite relationship in which a factor had been called upon for the sole purpose, for a company, of obtaining financing by circumventing the impossibility of taking out a bank loan.

66 Nor does it appear relevant, in the context of the present case, the solution adopted in the judgment of 6 October 2022, *O. Fundusz Inwestycyjny Zamknięty reprezentowany przez O* (C-250/21, EU:C:2022:757), which concerned the VAT treatment of a mechanism used in the field of securitisation or structured financing the essential purpose of which was the provision of capital against remuneration, in the form of services provided under a sub-participation agreement, consisting of providing the originator with a financial contribution in return for the payment of the proceeds from specific debts, which remained part of that originator's assets.

67 Lastly, the Finnish Government's argument that all financing arrangements should be treated in the same way for VAT purposes cannot be accepted since, by distinguishing the tax treatment, with regard to that tax, of debt collection services and of services for the granting of credit, the EU legislature itself provided for the possibility of co-existence of financing arrangements subject to VAT and financing arrangements exempt from VAT.

68 It follows that the factoring commission and the arrangement fees paid by the client in the context of invoice factoring, which is characterised by the fact that the factor is responsible for the recovery and collection of the debts concerned which, without being transferred to that factor, are used as security for the financing provided by it to the client, must be regarded as constituting consideration for a single and indivisible supply of 'debt collection' subject to VAT.

69 In the light of the foregoing, the answer to the third and fourth questions is that Article 135(1)(b) and (d) of the VAT Directive must be interpreted as meaning that

– the factoring commission paid for a debt collection service the value of which increases the longer the payment term and the greater the level of risk assumed by the factor and

– the arrangement fees paid by the client, which correspond to the flat-rate amount paid in order to set up the factoring process and which cover, inter alia, the cost of procedures relating to compliance with the obligations arising from the applicable legislation on money laundering

charged by the factor in the context of trade factoring such as that referred to in the answer to the first and second questions or invoice factoring, which is characterised by the fact that the factor undertakes the recovery and collection of the debts concerned which, without being transferred to that factor, are used as security for the financing provided by the factor to the client, constitute consideration for a single and indivisible service of 'debt collection', subject to VAT.

The fifth question

70 By its fifth question, the referring court asks, in essence, whether, if the exception relating to debt collection provided for in Article 135(1)(d) of the VAT Directive applies to factoring services such as those at issue in the main proceedings, that exception is unconditional and sufficiently precise to have direct effect.

71 In accordance with the Court's settled case-law, whenever the provisions of a directive appear, so far as their subject matter is concerned, to be unconditional and sufficiently precise, they may be relied upon before the national courts by individuals against the State where the State has transposed the directive incorrectly (judgment of 8 March 2022, *Bezirkshauptmannschaft Hartberg-Fürstenfeld (Direct effect)*, C-205/20, EU:C:2022:168, paragraph 17 and the case-law cited).

72 It should also be borne in mind that a provision of EU law is, first, unconditional where it sets forth an obligation which is not qualified by any condition, or subject, in its implementation or effects, to the taking of any measure either by the institutions of the European Union or by the Member States and, second, sufficiently precise to be relied on by an individual and applied by a court where it sets out an obligation in unequivocal terms (judgment of 8 March 2022, *Bezirkshauptmannschaft Hartberg-Fürstenfeld (Direct effect)*, C-205/20, EU:C:2022:168, paragraph 18 and the case-law cited).

73 In the first place, as regards the unconditional nature of the exemption relating to debt collection set out in Article 135(1)(d) of the VAT Directive, it is apparent from its wording that that provision is unconditional since its application is not subject to additional conditions or the adoption of implementing acts.

74 In the second place, in so far as it provides for that exemption, Article 135(1)(d) establishes, in unequivocal terms, an obligation on the Member States, without those States having any discretion and must therefore be regarded as sufficiently precise within the meaning of the case-law referred to in paragraph 72 of the present judgment.

75 It follows that the exception relating to debt collection laid down in Article 135(1)(d) of the VAT Directive has direct effect and may therefore be relied on by individuals before the national courts against the State.

76 In that context, it should further be recalled that, in order to ensure the effectiveness of all provisions of EU law, the primacy principle requires, inter alia, national courts to interpret, to the greatest extent possible, their national law in conformity with EU law, it being specified that that obligation to interpret in a manner consonant with EU law may not, in particular, serve as a basis for an interpretation of national law *contra legem* (see, to that effect, judgment of 8 March 2022, *Bezirkshauptmannschaft Hartberg-Fürstenfeld (Direct effect)*, C-205/20, EU:C:2022:168, paragraphs 35 and 36 and the case-law cited).

77 It should also be borne in mind that the principle of primacy places the national court which is called upon within the exercise of its jurisdiction to apply provisions of EU law under a duty, where it is unable to interpret national legislation in compliance with the requirements of EU law, to give full effect to the requirements of that law in the dispute before it, if necessary disapplying of its own motion any national legislation or practice, even if adopted subsequently, which is contrary to a provision of EU law with direct effect, and it is not necessary for that court to request or await the prior setting aside of such national legislation or practice by legislative or other constitutional means (judgment of 8 March 2022, *Bezirkshauptmannschaft Hartberg-Fürstenfeld (Direct effect)*, C-205/20, EU:C:2022:168, paragraph 37).

78 It will be for the referring court to determine whether compliance with that exception can be ensured in the context of an interpretation in conformity with EU law of the provisions of domestic law or, in the absence of such a possibility, whether it entails setting aside all or part of those provisions.

79 It follows from the foregoing that the answer to the fifth question is that Article 135(1)(d) of the VAT Directive must be interpreted as meaning that the exception relating to debt collection, provided for in that provision, is unconditional and sufficiently precise to have direct effect and, therefore, may be relied on by individuals before the national courts against the State.

Costs

80 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the referring 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 (First Chamber) hereby rules:

1. **Article 2(1)(c) and 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, as regards trade factoring, in the context of which the factor relieves the client of debt recovery operations and of the risk of the debts not being paid,

   – **the factoring commission paid for a debt collection service the value of which increases the longer the payment term and the greater the level of risk assumed by the factor and**

   – **the arrangement fees paid by the client, which correspond to the flat-rate amount paid in order to set up the factoring process and which cover, inter alia, the cost of procedures relating to compliance with the obligations arising from the applicable legislation on money laundering,**

   constitute the value actually given in return for the supply of services falling within the scope of that directive.

2. **Article 135(1)(b) and (d) of Directive 2006/112**

   must be interpreted as meaning that:

   – **the factoring commission paid for a debt collection service the value of which increases the longer the payment term and the greater the level of risk assumed by the factor and**

   – **the arrangement fees paid by the client, which correspond to the flat-rate amount paid in order to set up the factoring process and which cover, inter alia, the cost of procedures relating to compliance with the obligations arising from the applicable legislation on money laundering**

   charged by the factor in the context of trade factoring such as that referred to in the answer in point 1 of the operative part or invoice factoring, which is characterised by the fact that the factor undertakes the recovery and collection of the debts concerned which, without being transferred to that factor, are used as security for the financing provided by the factor to the client, constitute consideration for a single and indivisible service of debt collection, subject to value added tax.

3. **Article 135(1)(d) of Directive 2006/112**

   must be interpreted as meaning that the exception relating to 'debt collection', provided for in that provision, is unconditional and sufficiently precise to have direct effect and, therefore, may be relied on by individuals before the national courts against the State.

[Signatures]