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 – Transactions subject to VAT – Article 2(1)(c) – Supply of services for consideration – Article 9(1) – Taxable person – Legal assistance provided free of charge by a lawyer to a party in legal proceedings – Payment of that lawyer's fees by the unsuccessful opposing party)

In Case C-744/23 [Zlakov], [i]

REQUEST for a preliminary ruling under Article 267 TFEU from the Sofiyski rayonen sad (Sofia District Court, Bulgaria), made by decision of 29 November 2023, received at the Court on 1 December 2023, in the proceedings

T.P.T.

v

'Financial Bulgaria' EOOD,

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 (Rapporteur) and S. Gervasoni, Judges,

Advocate General: J. Kokott,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

– 'Financial Bulgaria' EOOD, by P. Damyanov and M. Kozhuharova,

– the Polish Government, by B. Majczyna, acting as Agent,

– the European Commission, by M. Herold and G. Koleva, acting as Agents,

* Language of the case: Bulgarian.

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

after hearing the Opinion of the Advocate General at the sitting on 8 May 2025,

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Article 2(1)(c), Article 24(1), Article 26(1)(b), Article 28 and Article 75 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 between T.P.T. and 'Financial Bulgaria' EOOD concerning an application made by T.P.T.'s lawyer seeking that Financial Bulgaria pay him, in addition to his fees, the value added tax (VAT) calculated on the amount of those fees.

Legal context

European Union law

3 Article 2(1)(c) of the VAT Directive states that 'the supply of services for consideration within the territory of a Member State by a taxable person acting as such' is to be subject to VAT.

4 The first subparagraph of Article 9(1) of that directive provides:

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

5 Article 24(1) of that directive provides:

'"Supply of services" shall mean any transaction which does not constitute a supply of goods.'

6 Article 26(1) thereof states:

'Each of the following transactions shall be treated as a supply of services for consideration:

…

(b) the supply of services carried out free of charge by a taxable person for his private use or for that of his staff or, more generally, for purposes other than those of his business.'

7 Article 28 of the VAT Directive provides:

'Where a taxable person acting in his own name but on behalf of another person takes part in a supply of services, he shall be deemed to have received and supplied those services himself.'

8 Article 75 of that directive is worded as follows:

'In respect of the supply of services, as referred to in Article 26, where goods forming part of the assets of a business are used for private purposes or services are carried out free of charge, the taxable amount shall be the full cost to the taxable person of providing the services.'

Bulgarian law

9 The Zakon za advokaturata (Law on the Legal Profession), as in force on the date of the facts at issue in the main proceedings ('the ZA'), provides, in Article 38 thereof:

'(1) A lawyer or a lawyer from the European Union may provide legal aid and assistance that are free of charge to …:

…

2. persons in financial difficulties;

…

(2) In the cases referred to in paragraph 1, if, in the proceedings at issue, the opposing party has been ordered to pay the costs, the lawyer or lawyer from the European Union shall be entitled to remuneration. The court shall set the remuneration at least in the amount laid down by the regulation [referred to in] Article 36(2) of [the ZA] and shall order the opposing party to pay that remuneration.'

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

10 T.P.T. brought a civil action against Financial Bulgaria seeking a declaration of nullity of a security agreement concluded between them in the context of a consumer credit agreement. To that end, T.P.T. was represented in court by a lawyer, acting as a one-person law firm, on the basis of a contract concluded with the latter. That legal assistance was provided to him free of charge under Article 38(1)(2) of the ZA.

11 Since T.P.T. was successful in his case, the Sofiyski rayonen sad (Sofia District Court, Bulgaria), which is the referring court, ordered, by decision of 3 August 2023, Financial Bulgaria to pay an amount of 400 leva (BGN) to T.P.T.'s lawyer under Article 38(2) of the ZA, without, however, including VAT.

12 On 13 October 2023, T.P.T.'s lawyer filed an application with the referring court seeking the alteration of the decision of 3 August 2023 so that he would be granted, in addition to his fees, payment of VAT calculated on the amount of BGN 400, which amounts to BGN 80.

13 Financial Bulgaria opposed that application, arguing that there was no reason to award payment of the VAT on the lawyer's fees since legal assistance had been provided free of charge to T.P.T.

14 The referring court states that T.P.T.'s lawyer is registered under the Bulgarian law on VAT and that, if that lawyer provides his services on the basis of an agreement providing for remuneration to be paid by his client, the lawyer's fees should therefore be subject to VAT.

15 According to that court, it should be clarified whether the same applies where the representation of the client in court by his or her lawyer is provided free of charge and the competent court orders the unsuccessful opposing party to pay, directly to that same lawyer, the equivalent of what that lawyer would have been awarded if that supply of services had been effected in return for fees. In particular, the referring court questions whether, in such circumstances, the lawyer must be regarded as a taxable person and whether the provision of legal assistance constitutes a supply of services for consideration, or even a supply of services free of charge which must be treated as a supply of services for consideration.

16 In those circumstances, the Sofiyski rayonen sad (Sofia District Court) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

'(1) Is a "supply of services" within the meaning of Article 2(1)[(c)], Article 24(1), Article 26(1)(b) and Article 28 of [the VAT Directive] to be interpreted as including:
(a) the provision of legal aid free of charge (pro bono) by a lawyer to a party in court proceedings[?]
(b) the provision of legal aid free of charge (pro bono) by the lawyer of a party which has been successful in a legal dispute, where the court awards that party's lawyer the remuneration which he or she would have received if remuneration had been agreed under a contract for legal assistance[?]

(2) Is a "supply of services carried out free of charge" within the meaning of Article 26(1)(b) of [the VAT Directive] to be interpreted as covering:
(a) the provision of legal aid free of charge (pro bono) by a lawyer to a party in court proceedings[?]
(b) the provision of legal aid free of charge (pro bono) by the lawyer of a party which has been successful in a legal dispute, where the court awards that party's lawyer the remuneration which he or she would have received if remuneration had been agreed under a contract for legal assistance[?]

(3) Is a "supply of services for consideration" within the meaning of Article 2(1)[(c)], Article 24(1) and Article 26(1)(b) of [the VAT Directive] to be interpreted as covering the provision of legal aid free of charge (pro bono) by a lawyer to a party which has been successful in the legal dispute, where the court awards that party's lawyer the remuneration which he or she would have received if remuneration had been agreed under a contract for legal assistance[?]

(4) Is "taxable person" within the meaning of Article 28 and Article 75 of [the VAT Directive] to be interpreted as covering:
(a) a lawyer (a one-person law firm) who has provided legal aid free of charge (pro bono) to a party in court proceedings[?]
(b) a lawyer (a one-person law firm) who has provided legal aid free of charge (pro bono) to a party which has been successful in a legal dispute, where the court awards that party's lawyer (the one-person law firm) the remuneration which he or she would have received if remuneration had been agreed under a contract for legal assistance[?]'

Consideration of the questions referred

17 According to settled case-law of the Court, in the procedure laid down by Article 267 TFEU providing for cooperation between national courts and the Court of Justice, it is for the latter to provide the national court with an answer which will be of use to it and enable it to determine the case before it. To that end, the Court should, where necessary, reformulate the questions referred to it. In that regard, it is for the Court to extract from all the information provided by the national court, in particular from the grounds of the order for reference, the points of EU law which require interpretation, having regard to the subject matter of the dispute (see, to that effect, judgments of 13 December 1984, *Haug-Adrion*, 251/83, EU:C:1984:397, paragraph 9, and of 30 April 2024, *M.N. (EncroChat)*, C-670/22, EU:C:2024:372, paragraph 78).

18 In the present case, taking into account the factual context as provided in the order for reference, the questions referred must be understood as inviting the Court to determine whether the provisions of Article 2(1)(c), Article 24(1), Article 26(1)(b), Article 28 and Article 75 of the VAT Directive must be interpreted as meaning that the representation of a party in court by a lawyer in circumstances where a service is provided free of charge, but where the legislation of the Member State concerned provides that the opposing party, in the event that that party is ordered to pay the costs, is also ordered to pay to that lawyer fees, the amount of which is regulated by that legislation, must be regarded as a supply of services for consideration or a supply of services carried out free of charge which must be treated as a supply of services for consideration.

19 To answer that question thus reformulated, it must be borne in mind that, under Article 2(1)(c) of the VAT Directive, supplies of services for consideration within the territory of a Member State by a taxable person acting as such are to be subject to VAT.

20 In that regard, the first subparagraph of Article 9(1) of the VAT Directive states that 'taxable person' means any person who, independently, carries out any economic activity, whatever the purpose or results of that activity. In addition, under Article 24(1) of that directive, 'supply of services' means any transaction which does not constitute a supply of goods.

21 In the present case, as the Advocate General noted, in essence, in points 33 and 34 of her Opinion, T.P.T.'s lawyer, who is registered in accordance with the Bulgarian law on VAT, must be regarded as a taxable person, within the meaning of Article 9(1) of the VAT Directive, without it being relevant, in that context, that the lawyer's fees were awarded to him in respect of a person to whom he provided legal assistance free of charge and who was successful.

22 Furthermore, it should be noted that the representation of a client in court by a lawyer constitutes a supply of services within the meaning of Article 24(1) of the VAT Directive.

23 As regards the question whether a supply of services such as that at issue in the main proceedings constitutes a supply of services carried out 'for consideration', it is settled case-law that classifying a supply of services as a transaction 'for consideration', within the meaning of Article 2(1)(c) of the VAT Directive, requires only that there be a direct link between that supply and the consideration actually received by the taxable person. Such a direct link is established if there is a legal relationship between the provider of the service and the recipient pursuant to which there is reciprocal performance, the remuneration received by the provider of the service constituting the actual consideration for the service supplied to the recipient (judgment of 21 December 2023, *Administration de l'enregistrement, des domaines et de la TVA (VAT – Member of a board of directors)*, C-288/22, EU:C:2023:1024, paragraph 33 and the case-law cited).

24 By contrast, the direct link between the supply of services and the consideration is broken when the remuneration is awarded in a voluntary and uncertain way so that its amount is practically impossible to determine or where its amount is difficult to quantify or the circumstances relating to its calculation are uncertain (judgment of 21 December 2023, *Administration de l'enregistrement, des domaines et de la TVA (VAT – Member of a board of directors)*, C-288/22, EU:C:2023:1024, paragraph 36 and the case-law cited).

25 In the present case, first, it is apparent from the order for reference that there is a contract between T.P.T. and that party's lawyer, whose subject matter is the provision of legal assistance free of charge under Article 38(1)(2) of the ZA. Secondly, since T.P.T. was successful in the relevant legal proceedings, the opposing party was ordered, under Article 38(2) of the ZA, to pay that lawyer the lawyer's fees, the amount of which was set according to the arrangements provided by law, by reference to the minimum amounts of lawyer's fees.

26 Consequently, the existence of a direct link between the legal assistance provided by T.P.T.'s lawyer and the lawyer's fees paid to him is evidenced both by a contract and by law.

27 In that context, the fact that the lawyer's fees are obtained not from the party to which legal assistance was provided, but from the opposing party and therefore from a third party is irrelevant. For a supply of services to be deemed to be 'for consideration' within the meaning of the VAT Directive, it is not necessary that the consideration for that supply be obtained directly from the recipient thereof (judgment of 21 December 2023, *Administration de l'enregistrement, des domaines et de la TVA (VAT – Member of a board of directors)*, C-288/22, EU:C:2023:1024, paragraph 40 and the case-law cited).

28 Furthermore, the finding in paragraph 26 of the present judgment is not called into question by the uncertainty concerning the payment of lawyers' fees due to the absence of any guarantee as to the success of the legal proceedings and, consequently, as to an order that the opposing party must pay those fees.

29 While it is true that it is apparent from the Court's case-law, and more specifically from the judgments of 3 March 1994, *Tolsma* (C-16/93, EU:C:1994:80, paragraph 19), and of 10 November 2016, *Baštová* (C-432/15, EU:C:2016:855, paragraph 29), that the uncertain nature of any payment is such as to break the direct link between the service provided to the recipient and any payment which may be received, the fact remains that the situation at issue in the main proceedings and the situations at the origin of the cases which gave rise to those judgments are not comparable.

30 Thus, the judgment of 3 March 1994, *Tolsma* (C-16/93, EU:C:1994:80), concerned a musician who performed in public and received donations from passers-by. In that regard, the Court found, in paragraphs 16 and 17 of that judgment, that that income did not constitute consideration for a service supplied to passers-by since, first, there was no agreement between the parties, since the passers-by voluntarily made a donation, whose amount they determined as they wished, and that, secondly, there was no necessary link between the musical service and the payments to which it gave rise.

31 The judgment of 10 November 2016, *Baštová* (C-432/15, EU:C:2016:855), concerned, among other things, the question of whether the provision of a horse by a taxable person to a horse race organiser to have that horse participate in that race constituted a supply of services for consideration.

32 In that regard, the Court found, in paragraphs 35 and 37 of that judgment, that, in principle, such provision cannot be regarded as effective consideration for the service supplied by the race organiser and consisting in enabling that owner to have his horse participate in the horse race, where that service is remunerated by the payment, by the owner of the horse, of entrance and declaration fees reflecting the value actually given in return for the participation in the race and that any benefit, which the owner of the horse could possibly derive from that participation as a result of the increase in the value of the horse in the event that it is placed or the publicity gained by the horse from that participation, is difficult to quantify and uncertain. Furthermore, prize money, if any, awarded due to the placing of the horse at the end of the race cannot be regarded either as effective consideration for the provision of the horse since it is not that provision by the owner of the horse to the horse race organiser which, as such, leads to payment of prize money, but the achievement of a certain result at the end of the race.

33 Although, in the dispute in the main proceedings, the payment of the lawyer's fees is subject to a risk depending on the outcome of the trial, those fees represent, however, effective consideration for the service consisting of the representation of the client in court.

34 In so far as the referring court refers, moreover, to Article 26(1)(b), Article 28 and Article 75 of the VAT Directive, it is sufficient to note that none of those provisions applies to a service such as that at issue.

35 In the light of all the foregoing considerations, the answer to the questions referred is that Article 2(1)(c) of the VAT Directive must be interpreted as meaning that the representation of a party in court by a lawyer constitutes a supply of services for consideration within the meaning of that provision, in circumstances where that supply is provided free of charge, but where the legislation of the Member State concerned provides that the opposing party, in the event that the latter is ordered to pay the costs, is also ordered to pay that lawyer fees, the amount of which is regulated by that legislation.

Costs

36 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:

Article 2(1)(c) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax

must be interpreted as meaning that the representation of a party in court by a lawyer constitutes a supply of services for consideration within the meaning of that provision, in circumstances where that supply is provided free of charge, but where the legislation of the Member State concerned provides that the opposing party, in the event that the latter is ordered to pay the costs, is also ordered to pay that lawyer fees, the amount of which is regulated by that legislation.

[Signatures]