JUDGMENT OF THE COURT (Third Chamber)

28 January 2010 *

In Case C-473/08,

REFERENCE for a preliminary ruling under Article 234 EC, from the Sächsisches Finanzgericht (Germany), made by decision of 13 October 2008, received at the Court on 5 November 2008, in the proceedings

Ingenieurbüro Eulitz GbR Thomas und Marion Eulitz

v

Finanzamt Dresden I,

THE COURT (Third Chamber),

composed of J.N. Cunha Rodrigues, President of the Second Chamber, acting for the President of the Third Chamber, A. Rosas, U. Lõhmus, A. Ó Caoimh (Rapporteur) and A. Arabadjiev, Judges,

* Language of the case: German.

Advocate General: E. Sharpston,
Registrar: R. Grass,

after considering the observations submitted on behalf of:

— Finanzamt Dresden I, by P. Zimmermann-Hübner,

— the German Government, by M. Lumma and C. Blaschke, acting as Agents,

— the Greek Government, by G. Kanellopoulos, S. Trekli and M. Tassopoulou, acting as Agents,

— the Commission of the European Communities, by D. Triantafyllou, acting as Agent,

having decided, after hearing the Advocate General, to proceed to judgment without an Opinion,

gives the following

Judgment

1 This reference for a preliminary ruling concerns the interpretation of Article 13A(1)(j) of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (OJ 1977 L 145, p. 1, 'the Sixth Directive').

2 The reference was made in the course of proceedings between Ingenieurbüro Eulitz GbR Thomas und Marion Eulitz ('Eulitz GbR'), and Finanzamt Dresden I ('the Finanzamt' (Tax Office)), concerning the latter's refusal to exempt from value added tax ('VAT') the activities carried out by one of the partners in Eulitz GbR, Mr Thomas Eulitz, relating to continuing professional training courses organised by a separate entity.

Legal context

Community legislation

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

4 Pursuant to Article 4(1) of that directive, 'taxable person' means any person who independently carries out in any place any economic activity specified in Article 4(2), whatever the purpose or results of that activity.

5 It is stated in the first subparagraph of Article 4(4) of that Directive that 'the use of the word "independently" in paragraph 1 is to exclude employed and other persons from the tax in so far as they are bound to an employer by a contract of employment or by any other legal ties creating the relationship of employer and employee as regards working conditions, remuneration and the employer's liability'.

6 Article 13A(1) of the Sixth Directive states:

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

…

(i) children's or young people's education, school or university education, vocational training or retraining, including the supply of services and of goods closely related thereto, provided by bodies governed by public law having such as their aim or by other organisations defined by the Member State concerned as having similar objects;

(j) tuition given privately by teachers and covering school or university education;

…'

National legislation

7 At the time of the facts of the dispute in the main proceedings, Paragraph 4 of the Law on turnover tax (Umsatzsteuergesetz, 'the UStG'), headed 'Tax exemptions in the case of supplies of goods and provision of services', provided in subparagraph 21 that the following were exempt from VAT:

'(a) the services of private schools and other general education or vocational training organisations directly serving the purpose of schooling and education,

(aa) where they are approved at federal level … in accordance with Article 7(4) of the Grundgesetz (Basic Law) or are permitted under the law of the Land, or

(bb) where the competent authority of the Land certifies that they are in due preparation for a profession or for an examination to be taken before a legal person governed by public law.

(b) the tuition services of independent teachers directly serving the purpose of schooling and education

(aa) for universities within the meaning of Paragraphs 1 and 70 of the Hochschulrahmengesetz (Framework law on higher education) and public general education or vocational training schools, or

(bb) for private schools and other general education or vocational training organisations, provided they satisfy the requirements set out under letter (a)'.

8 Pursuant to Paragraph 4(22)(a) of the UStG, lectures, courses and other activities of an academic or didactic nature provided by legal persons governed by public law, academies of administration or economics, adult education centres or bodies which serve the public good or the aims of a professional association were exempt from tax, provided that the income was primarily used to cover costs.

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

9 Eulitz GbR, a civil law partnership, is an engineering consultancy in Dresden (Germany).

10 Mr Eulitz, one of the partners of Eulitz GbR, is a graduate engineer in preventive fire protection. During the period at issue in the main proceedings, covering 2001 to 2005, he gave lectures at the Europäisches Institut für postgraduale Bildung an der Technischen Universität Dresden [European Institute for Postgraduate Education at

the Technical University of Dresden] (EIPOS e.V.) ('EIPOS'), an association governed by private law, and he conducted examinations as a member of examination boards.

11 In addition to his teaching and examination work, Mr Eulitz had overall technical and organisational responsibility for some of the courses at that institute. He therefore had to consult with the other lecturers as regards the content and dates of their courses and was the central point of contact for the participants on matters relating to those courses in general.

12 Mr Eulitz worked on various training courses, all relating to fire prevention. The admission requirement for participants on all those courses was at least a university or higher technical college qualification as an architect or an engineer or proof of two years' professional practice in the field of fire protection planning, or, where appropriate, in the construction sector. Successful completion of the authorised expert course led, upon application, to the appointment of the graduate as an authorised expert in preventive fire protection by the Industrie- und Handelskammer (Chamber of Industry and Commerce).

13 The Finanzamt subjected the income of Eulitz GbR derived from that activity of Mr Eulitz to VAT, taking the view that it was not exempt under Paragraph 4(21) or (22) of the UStG.

14 Following dismissal of the notice of objection lodged by it against that decision, Eulitz GbR instituted the main proceedings, seeking exemption of the income concerned, which was received, it submits, in return for services provided by Mr Eulitz as a teacher, privately on his own account and at his own risk.

15 The Finanzamt considers, by contrast, that the exemption under Article 13A(1)(i) or (j) of the Sixth Directive does not apply. First, Eulitz GbR is not a body governed by public law responsible for children's or young people's education, school or university education, vocational training or retraining, nor is it another organisation defined by the Member State concerned as having similar objects. Second, the services in question cannot be regarded as school or university education given 'privately' by a teacher. In particular, Mr Eulitz acted as a teacher in the context of training courses offered by EIPOS and, therefore, under the responsibility and on behalf of that institute.

16 The Sächsisches Finanzgericht (Finance Court, Saxony) states in particular that Eulitz GbR is an independent contractor within the meaning of Paragraph 2(1) of the UStG, but that, under German law, it is not entitled to VAT exemption with regard to the services in question. In particular, it is not Eulitz GbR, but EIPOS, which provided those services to participants in the training courses. In addition, neither EIPOS nor Eulitz GbR have the certification provided for under Paragraph 4(21)(b)(bb) of the UStG, indicating that they regularly prepare students for a profession or examination held by a legal person governed by public law. According to the referring court, that last factor precludes the application in the case in the main proceedings of the exemption under Article 13A(1)(i) of the Sixth Directive, because Eulitz GbR is not an 'organisation defined' by the Member State concerned within the meaning of that provision. With regard to subparagraph (j) of the same paragraph, the national court expresses doubts with regard to the status of Mr Eulitz as a teacher acting 'privately'.

17 Against that background, the Sächsisches Finanzgericht, uncertain of the applicability of the exemption contained in Article 13A(1)(j) of that directive in the case in the main proceedings, decided to stay proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

'1. Is teaching and examination work which a graduate engineer performs at an education institute established as a private-law association for participants in advanced training courses who already have at least a university or higher technical

college qualification as an architect or an engineer or who have an equivalent education, where the course is concluded with an examination, "school or university education" within the meaning of Article 13A(1)(j) of Directive 77/388 …?

2. (a) Is a person who otherwise satisfies the requirements to be a teacher giving tuition "privately" within the meaning of [that] provision … excluded from that category of persons if:

— he receives payment (in full or in part) for his teaching classes even if no participants have enrolled for the teaching class in question, but he has already done preparatory work for it,

— he is responsible, repeatedly and continuously over a considerable period of time, for organising the relevant teaching and examination work, or

— in addition to his direct tuition work, he has taken on a professionally and/or organisationally prominent position compared with the other lecturers on the course in question?

(b) Is such exclusion to be taken to exist if just one of [those criteria] is satisfied, or only if two or all three criteria [when present] have been met?'

The questions referred for a preliminary ruling

18 By its two questions, the referring court seeks, in essence, to determine whether activities such as those carried out by one of the partners in the claimant in the main proceedings, in circumstances such as those described, constitute 'tuition given privately by teachers and covering school or university education' within the meaning of Article 13A(1)(j) of the Sixth Directive.

19 It should be observed to begin with that, as the Commission of the European Communities states, it appears that, under German law, the activities at issue in the main proceedings were not carried out by Eulitz GbR as an independent legal person, but by one of its partners, Mr Eulitz. Against that background the referring court focuses on the activities of that partner, since those activities may be treated as the activities of the company as such.

The first question

20 By its first question, the referring court asks, in essence, whether Article 13A(1)(j) of the Sixth Directive must be interpreted as meaning that teaching and examination work which a graduate engineer performs at an education institute established as a private-law association, in training courses — culminating in an examination — for participants who already have at least a university or higher technical college qualification as an architect or an engineer or who have an equivalent education may constitute 'school or university education' within the meaning of that provision.

21 The wording of the German version of Article 13A(1)(j) of the Sixth Directive, namely, 'von Privatlehrern erteilten Schul- und Hochschulunterricht' (literally: school or university classes provided by private teachers) differs from the terms used in all other language versions in which the Sixth Directive was initially adopted, to the extent that,

in those other versions, the exemption specified in that provision does not refer directly to 'school or university education', but to a related concept expressed in English as 'tuition … covering' such education.

22 It must be borne in mind in this regard that, according to settled case-law, the necessity for uniform application and accordingly for uniform interpretation of a Community measure makes it impossible to consider one version of the text in isolation, but requires that it be interpreted on the basis of both the real intention of its author and the aim the latter seeks to achieve, in the light, in particular, of the versions in all languages (see, inter alia, Case 29/69 *Stauder* [1969] ECR 419, paragraph 3, and Joined Cases C-261/08 and C-348/08 *Zurita García and Choque Cabrera* [2009] ECR I-10143, paragraph 54).

23 Therefore, the first question must be understood as seeking to ascertain, in essence, whether Article 13A(1)(j) of the Sixth Directive is to be interpreted as meaning that activities such as those at issue in the main proceedings may constitute 'tuition … covering school or university education' within the meaning of that provision.

24 Next, it must be recalled that the Sixth Directive confers a very wide scope of application on VAT, covering all economic activities of producers, traders and persons supplying services. However, Article 13 of that directive exempts certain activities from VAT (see Case C-253/07 *Canterbury Hockey Club and Others* [2008] ECR I-7821, paragraph 15).

25 It is settled case-law that the exemptions referred to in Article 13 of the Sixth Directive constitute independent concepts of Community law whose purpose is to avoid

divergences in the application of the VAT system as between one Member State and another (see, in particular, see Case C-349/96 *CPP* [1999] ECR I-973, paragraph 15; Case C-434/05 *Horizon College* [2007] ECR I-4793, paragraph 15; and C-242/08 *Swiss Re Germany* [2009] ECR I-10099, paragraph 33).

26 The Court has also consistently held that the exemptions in Article 13A of the Sixth Directive are not aimed at exempting from VAT every activity performed in the public interest, but only those which are listed and described in great detail in it (see, to that effect, in particular, Case 107/84 *Commission* v *Germany* [1985] ECR 2655, paragraph 17; Case C-307/01 *D'Ambrumenil and Dispute Resolution Services* [2003] ECR I-13989, paragraph 54; Case C-445/05 *Haderer* [2007] ECR I-4841, paragraph 16 and the case-law cited; and *Canterbury Hockey Club and Canterbury Ladies Hockey Club*, paragraph 18).

27 The terms used to specify the exemptions in Article 13 of the Sixth Directive are to be interpreted strictly, since they constitute exceptions to the general principle that VAT is to be levied on all goods and services supplied for consideration by a taxable person. Nevertheless, the interpretation of those terms must be consistent with the objectives pursued by those exemptions and comply with the requirements of the principle of fiscal neutrality inherent in the common system of VAT. Thus, the requirement of strict interpretation does not mean that the terms used to specify the exemptions referred to in Article 13 should be construed in such a way as to deprive the exemptions of their intended effect (see *Horizon College*, paragraph 16; *Haderer*, paragraph 18 and the case-law cited; and Case C-461/08 *Don Bosco Onroerend Goed* [2009] ECR I-11079, paragraph 25 and the case-law cited).

28 Article 13(A)(1)(j) of the Sixth Directive does not include any definition of the concept of 'tuition … covering school or university education' within the meaning of that provision.

29 As regards the phrase 'school or university education' included therein, the Court, whilst refraining expressly from providing a precise definition, pointed out in paragraph 26 of the abovementioned *Haderer* judgment, that the phrase is not limited only to education which leads to examinations for the purpose of obtaining qualifications or which provides training for the purpose of carrying out a professional or trade activity,

but includes other activities which are taught in schools or universities in order to develop pupils' or students' knowledge and skills, provided that those activities are not purely recreational.

30 As regards in particular the term 'education', it should be borne in mind that the Court has held, in essence, that although the transfer of knowledge and skills between a teacher and students is a particularly important element of educational activity referred to in Article 13A(1)(i) of the Sixth Directive, it remains the case that that activity consists of a combination of elements which include, along with those relating to the teacher-student relationship, also those which make up the organisational framework of the establishment concerned (see, to that effect, *Horizon College*, paragraphs 18 to 20).

31 The same term should be understood in a similar manner in the context of Article 13A(1)(j) of the Sixth Directive.

32 However, as stated in paragraph 21 of this judgment, the exemption specified in the latter provision is not, however, specifically directed at 'school or university education' but, in language versions other than the German language version, at a related concept expressed in English as 'tuition … covering' such education. The word 'tuition' in this context must be understood as encompassing, essentially, the transfer of knowledge and skills between a teacher and pupils or students.

33 It follows that although teaching work performed in an education institute is not necessarily, in the absence of any other evidence,'school or university education' within the meaning of Article 13A(1)(j) of the Sixth Directive, such work could, however, fall under 'tuition given privately by teachers and covering school or university education' within the meaning of that provision, in so far as that work includes, essentially, the

transfer of knowledge and skills between a teacher and pupils or students in the context of training for the purpose of carrying out a professional or trade activity.

34 On this point, as the German Government maintains, it is irrelevant to the interpretation of Article 13A(1)(j) of the Sixth Directive that the formulation of the exemption in that provision is narrower — both in the German version and in the other language versions — than that of the exemption provided for in Article 13A(1)(i), in particular in that, unlike the latter, Article 13A(1)(j) does not, in addition to school or university education, specifically mention training.

35 As suggested by the national court itself, no distinction should be made for VAT purposes between education provided to pupils or students who are receiving initial school or university training and that provided to those already holding school or university qualifications who, on the basis of those qualifications, continue their professional training. The same applies to tuition covering that education.

36 Besides, as the Commission points out, such a distinction may prove to be strained with regard to the subjects taught. Although the terms used to specify the exemption envisaged under Article 13A(1)(j) of the Sixth Directive are, admittedly, to be interpreted strictly, a particularly narrow interpretation of 'school or university education' would risk creating divergences in the application of the VAT system from one Member State to another, as the Member States' respective education systems are organised according to different rules. Such divergences would be incompatible with the requirements of the case-law referred to in paragraph 25 of this judgment (see *Haderer*, paragraph 24).

37 From that perspective, as regards the activities of Mr Eulitz other than teaching in the strict sense, such as that of examiner, as well as the other activities referred to in paragraph 11 of the present judgment, it should be noted that such activities may be considered to be covered by the term 'tuition', within the meaning of Article 13A(1)(j) of the Sixth Directive, only in so far as they can be regarded as being carried out, essentially, in the context of the transfer of knowledge and skills between a teacher and pupils or students. It is for the referring court, if need be, to ascertain whether that is the case as regards some of the activities at issue in the main proceedings.

38 Therefore, the answer to the first question referred must be that Article 13A(1)(j) of the Sixth Directive must be interpreted as meaning that teaching work which a graduate engineer performs at an education institute established as a private-law association for participants in advanced training courses — culminating in an examination — who already have at least a university or higher technical college qualification as an architect or an engineer or who have an equivalent education can constitute 'tuition … covering school or university education' within the meaning of that provision. Activities other than teaching in the strict sense can also constitute such tuition, provided that they are carried out, essentially, in the context of the transfer of knowledge and skills between a teacher and pupils or students and cover school or university education. It is for the referring court, if need be, to ascertain whether all the activities at issue in the main proceedings are 'tuition' covering 'school or university education' within the meaning of that provision.

The second question

39 By its second question, the national court seeks, in essence, to determine whether, in circumstances such as those at issue in the main proceedings, a person such as Mr Eulitz, who is one of the partners in the claimant in the main proceedings, can be regarded as having given tuition 'privately' within the meaning of Article 13A(1)(j) of the Sixth Directive.

40 It is apparent from the wording of that question that the national court considers it possible in principle that, in the dispute in the main proceedings, Eulitz GbR could be regarded as having given tuition 'privately' through Mr Eulitz within the meaning of Article 13A(1)(j) of the Sixth Directive, subject only to the weight to be given, where appropriate, to the circumstances set out in that question.

41 As is evident from the wording of Article 13A(1)(j) of the Sixth Directive, in order for the exemption under that provision to apply, it is not sufficient for the tuition to cover school or university education; it must also be 'given privately by teachers' (see *Haderer*, paragraph 28).

42 In this respect, it should be noted that the rules for interpreting the exemptions in Article 13 of the Sixth Directive set out in paragraph 27 of this judgment apply to the specific conditions laid down for those exemptions to apply and in particular to those concerning the status or identity of the economic agent performing the services covered by the exemption (see, to that effect, Case C-216/97 *Gregg* [1999] ECR I-4947, paragraphs 16 to 20; Case C-498/03 *Kingscrest Associates and Montecello* [2005] ECR I-4427, paragraph 23; and *Haderer*, paragraph 19).

43 In the case in the main proceedings, it seems to be common ground that Mr Eulitz, essentially at least, acted as a teacher. In any event, that point has not been disputed by the Finanzamt or by those others who submitted observations to the Court pursuant to Article 23 of the Statute of the Court of Justice.

44 The question arises, however, in the case in the main proceedings whether the activities carried out by Mr Eulitz were done so 'privately' within the meaning of Article 13A(1)(j) of the Sixth Directive.

45 In that respect, the Commission, relying on paragraph 33 in the abovementioned *Haderer* judgment, submits that, since Mr Eulitz appears to have self-employed status in German civil and fiscal law, his activities were carried out 'privately' within the meaning of that provision.

46 It is true that, according to the order for reference, during the period at issue in the main proceedings, the German tax authorities found that Eulitz GbR, through the intermediary of Mr Eulitz, met the criteria set out in Article 4 of the Sixth Directive to be considered a taxable person for VAT purposes, in particular the criterion relating to the carrying out 'independently' of one of the economic activities specified in paragraph 2 of that article.

47 However, the fact that there is no relationship of employer and employee similar to that referred to in the first subparagraph of Article 4(4) of the Sixth Directive between EIPOS and Mr Eulitz, a partner in the claimant in the main proceedings, for the purposes of carrying out the activities at issue in the main proceedings is not enough by itself to justify considering that the activities of that partner were carried out 'privately', within the meaning of Article 13A(1)(j) of the Sixth Directive.

48 As the German Government points out, the mere fact of carrying out an economic activity 'independently' and in compliance with the other criteria set out in Article 4 of the Sixth Directive in order to be considered a taxable person for VAT purposes cannot, without more, lead to the conclusion that a teacher who is not bound by a contract of employment, or legal tie creating an analogous relationship of employer and employee, carries out his economic activities 'privately' within the meaning of Article 13A(1)(j) of that directive. If that were the case, the concept of tuition given 'privately' would have no autonomous meaning, since all teachers satisfying the conditions set out in Article 4 of that directive in order to be considered taxable persons would automatically be teaching 'privately' within the meaning of Article 13A(1)(j) of the same directive.

49 It may be that the Commission's argument set out in paragraph 45 of this judgment is based, first, on the formulation of the relevant provisions of German domestic law and, second, on the fact that the terms used in the German version of Article 13A(1)(j) of the Sixth Directive could be understood, as is apparent from paragraph 21 of the present judgment, as covering all courses given by a teacher who is not a member of the staff employed by an educational establishment.

50 However, it should be pointed out in that regard, first, that whether a specific transaction is subject to or exempt from VAT cannot depend on its classification in national law (see to that effect, in particular, *Kingscrest Associates and Montecello*, paragraph 25 and the case-law cited and *Haderer*, paragraph 25). Second, as follows from paragraph 22 of this judgment, the need for a uniform interpretation of Community directives makes it impossible for the text of a provision to be considered, in case of doubt, in isolation; on the contrary, it requires that it be interpreted and applied in the light of the versions existing in the other official languages (see, also, *Kingscrest Associates and Montecello*, paragraph 26 and the case-law cited, as well as Case C-199/08 *Eschig* [2009] ECR I-8295, paragraph 54).

51 It is apparent from several language versions other than German of Article 13A(1)(j) of the Sixth Directive that the interpretation of that provision set out in paragraph 49 of this judgment is not in reality supported by its wording (see, inter alia, apart from the English language version, for example the French version ('les leçons données, à titre personnel, par des enseignants et portant sur l'enseignement scolaire ou universitaire') the Italian ('le lezioni impartite da insegnanti a titolo personale e relative all'insegnamento scolastico o universitario'), the Polish ('nauczanie prywatne przez nauczycieli, obejmujące edukację szkolna i uniwersytecką'), the Portuguese ('As lições dadas, a título pessoal, por docentes, relativas ao ensino escolar ou universitário'), the Finish ('opettajan koulu- tai yliopisto-opetuksen tueksi antamat yksityisoppitunnit') and the Swedish ('Undervisning som ges privat av lärare och omfattar skolundervisning eller universitetsutbildning')).

52 In any event, without there being any need to examine the three sets of circumstances listed in the second question referred, it is clear from the order for reference that Mr Eulitz acted as a teacher in the context of training courses offered by another body, EIPOS. According to the findings of the national court, it is that body — and not

Mr Eulitz — which was in charge of the education institute within the framework of which Mr Eulitz gave tuition and which provided training to the participants of these courses.

53 As the German and Greek Governments submit, that fact, in itself, rules out the possibility that Mr Eulitz — and thus Eulitz GbR — could be regarded as giving tuition 'privately' within the meaning of Article 13A(1)(j) of the Sixth Directive. The facts set out in the second question, taken together or individually, cannot lead to any different conclusion.

54 The guidance given by the Court of Justice in *Haderer* is, moreover, to that effect. In paragraphs 33 to 35 of that judgment, the Court states, in essence, that it appeared that Mr Haderer had made himself available as a teacher to another entity, which paid him as a provider of services to the education system administered by that body, so that a person in the position of Mr Haderer could not be regarded as having acted 'privately', but that this was for the referring court to verify, taking account of all the circumstances of the case.

55 Therefore, the answer to the second question referred must be that Article 13A(1)(j) of the Sixth Directive is to be interpreted as meaning that, in circumstances such as those at issue in the main proceedings, a person such as Mr Eulitz, a partner in the claimant in the main proceedings, who performs teaching work for training courses offered by another entity, cannot be regarded as having given tuition 'privately' within the meaning of that provision.

Costs

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

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

1. **Article 13A(1)(j) of the 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 must be interpreted as meaning that teaching work which a graduate engineer performs at an education institute established as a private-law association for participants in advanced training courses — culminating in an examination — who already have at least a university or higher technical college qualification as an architect or an engineer or who have an equivalent education can constitute 'tuition … covering school or university education' within the meaning of that provision. Activities other than teaching in the strict sense can also constitute such tuition, provided that they are carried out, essentially, in the context of the transfer of knowledge and skills between a teacher and pupils or students and cover school or university education. It is for the referring court, if need be, to ascertain whether all the activities at issue in the main proceedings are 'tuition' covering 'school or university education' within the meaning of that provision.**

2. **Article 13A(1)(j) of that directive must be interpreted as meaning that, in circumstances such as those at issue in the main proceedings, a person such as**

Mr Eulitz, a partner in the claimant in the main proceedings, who performs teaching work for training courses offered by another body, cannot be regarded as having given tuition 'privately' within the meaning of that provision.

[Signatures]