Provisional text

JUDGMENT OF THE COURT (Fifth Chamber)

17 October 2024 (*)

(Reference for a preliminary ruling – Taxation – Common system of value added tax (VAT) – Directive 2006/112/EC – Articles 14 and 15 – Electric vehicle charging – Charging using devices provided by a company and allowing access to a network of charging points operated by different operators – Classification of the transaction for VAT purposes – ‘Supply of goods’ – Transfer made under commission contracts)

In Case C?60/23,

REQUEST for a preliminary ruling under Article 267 TFEU from the Högsta förvaltningsdomstolen (Supreme Administrative Court, Sweden), made by decision of 3 February 2023, received at the Court on 6 February 2023, in the proceedings

Skatteverket

v

Digital Charging Solutions GmbH,

THE COURT (Fifth Chamber),

composed of I. Jarukaitis, President of the Fourth Chamber, acting as President of the Fifth Chamber, D. Gratsias (Rapporteur), and E. Regan Judges,

Advocate General: T. ?apeta,

Registrar: A. Lamote, Administrator,

having regard to the written procedure and further to the hearing on 7 February 2024,

after considering the observations submitted on behalf of:

– Skatteverket, by A.-S. Pallasdies, acting as Agent,

– Digital Charging Solutions GmbH, by U. Grefberg,

– the Swedish Government, by H. Eklinder and F.-L. Göransson, acting as Agents,

– the Hungarian Government, by Zs. Biró-Tóth and Z. Fehér, acting as Agents,

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

after hearing the Opinion of the Advocate General at the sitting on 25 April 2024,

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Articles 14 and 15 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1), as amended by Council Directive 2009/162/EU of 22 December 2009 (OJ 2010 L 10, p. 14) ('Directive 2006/112').

2 The request has been made in proceedings between Digital Charging Solutions GmbH, a company incorporated under German law, and the Skatteverket (Tax Agency, Sweden) concerning the validity of the latter's tax ruling dated 8 April 2022 ('the tax ruling').

Legal context

European Union law

3 The second subparagraph of Article 1(2) of Directive 2006/112 provides as follows:

'On each transaction, [value added tax (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 Under Article 2(1) of that directive:

'The following transactions shall be subject to VAT:

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

…

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

…'

5 Article 14 of that directive provides:

'(1) "Supply of goods" shall mean the transfer of the right to dispose of tangible property as owner.

(2) In addition to the transaction referred to in paragraph 1, each of the following shall be regarded as a supply of goods:

…

(c) the transfer of goods pursuant to a contract under which commission is payable on purchase or sale.

…'

6 Article 15(1) of that directive provides:

'Electricity, gas, heat or cooling energy and the like shall be treated as tangible property.'

Swedish law

7 In accordance with point 1 of the first subparagraph of Paragraph 1 of Chapter 1 of the mervärdesskattelagen (1994:200) (Law (1994:200) on value added tax) of 30 March 1994 (SFS 1994 No 200) ('the VAT Law'), VAT is to be paid on supplies of goods or services in the national territory which are taxable and are effected by a taxable person acting as such.

8 Under Paragraph 6 of Chapter 1 of the VAT Law, 'goods' are to be understood as meaning tangible property, including immovable property and gas, heat, cooling energy and electricity. That paragraph further provides that a supply of services is understood as meaning any supply other than a supply of goods.

9 Point 1 of the first subparagraph of Paragraph 1 of Chapter 2 of the VAT Law provides that the supply of goods is defined, inter alia, as a transfer of goods for consideration, whereas point 1 of the third subparagraph of Paragraph 1 of that chapter provides that the supply of services is defined as a service supplied, transferred or otherwise effected in favour of someone for consideration.

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

10 Digital Charging Solutions has its place of business in Germany and does not have a fixed establishment in Sweden. It supplies users of electric vehicles in Sweden with access to a network of charging points. Via the network, the users receive real-time information on prices and availability of the charging points on the network. In addition, the network service includes functions for searching for and finding charging points and route planning.

11 The charging points on the network are operated not by Digital Charging Solutions, but by operators with whom the company has entered into contracts in order to enable electric vehicle users to charge their vehicles. To that end, Digital Charging Solutions provides those users with a card and an IT application for authentication. When the card or the application is used, the charging session is registered with the operator of the network of charging points, which invoices Digital Charging Solutions for those sessions. Invoicing takes place on a monthly basis at the end of each calendar month and payment must be made within 30 days.

12 On the basis of the invoices issued by the charging point operators, Digital Charging Solutions invoices the card or app users, separately and also on a monthly basis, first, for the quantity of electricity supplied and, second, for access to the network and adjacent services. The price of electricity varies but a fixed fee is levied for access to the network and to those services. That fee is charged regardless of whether or not the user actually purchased electricity during the relevant period. It is not possible only to purchase electricity from Digital Charging Solutions without at the same time paying for access to the network and for those transactions.

13 On 14 April 2021, Digital Charging Solutions applied to the Skatterättsnämnden (Revenue Law Commission, Sweden) for a tax ruling. On 8 April 2022, that government agency issued a ruling stating that the supply made by Digital Charging Solutions constituted a complex transaction principally characterised by the delivery of electricity to users and that the place of delivery was to be regarded as being in Sweden.

14 The Skatteverket (Tax Agency) brought an action before the Högsta förvaltningsdomstolen (Supreme Administrative Court, Sweden), the referring court, requesting confirmation of that tax ruling. Digital Charging Solutions also appealed to that court, requesting that the tax ruling be amended. Digital Charging Solutions argued before the referring court that, in the present case,

there were two separate supplies, namely a supply of electricity and a supply of services (the facilitation of access to the network of charging points), so that the only part of the supply that should be taxed in Sweden is the part consisting of the supply of electricity.

15 As is apparent from the request for a preliminary ruling, the majority of the members of the Skatterättsnämnden (Revenue Law Commission) takes the view that charging point operators supply electricity to Digital Charging Solutions, which in turn supplies it to the users. This is therefore a chain of operations in which those operators are not contractually bound to those users.

16 A minority within that commission takes the contrasting view that Digital Charging Solutions provides users with a service consisting, in particular, of the provision of a network of charging points and subsequent invoicing, which implies that it grants them some form of credit for the purchase of electricity, as per what was held, in different circumstances, in the judgments of 6 February 2003, *Auto Lease Holland* (C?185/01, EU:C:2003:73), and of 15 May 2019, *Vega International Car Transport and Logistic* (C?235/18, EU:C:2019:412). That approach takes particular account of the fact that users are free to choose among conditions such as the quality, quantity, time of purchase and manner of use of the electricity.

17 In order to rule on the dispute before it, the referring court is uncertain as to the scope that should be attached to the case-law following those judgments.

18 In those circumstances, the Högsta förvaltningsdomstolen (Supreme Administrative Court) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

‘(1) Does a supply to the user of an electric vehicle consisting of the charging of the vehicle at a charging point constitute a supply of goods under [Article] 14(1) and [Article] 15(1) of [Directive 2006/112]?

(2) If the answer to Question 1 is in the affirmative, is such a supply then to be deemed to be present at all stages of a chain of transactions which include an intermediary company, where the chain of transactions is accompanied by a contract at every stage, but only the user of the vehicle has the right to decide on matters such as quantity, time of purchase and charging location, as well as how the electricity is to be used?’

Consideration of the questions referred

The first question

19 By the first question, the referring court asks, in essence, whether Article 14(1) of Directive 2006/112, read in conjunction with Article 15(1) thereof, must be interpreted as meaning that the supply of electricity for the purposes of charging an electric vehicle at a charging point forming part of a public network of such points constitutes a supply of goods within the meaning of the former provision.

20 It should be noted that, as is apparent from the wording of the first question, it concerns the act consisting in charging an electric vehicle at a charging point, independently of the intervention of a company separate from the operator of the network of those points, in order to provide the user with access to that network, that intervention being the subject matter of the second question.

21 Article 14(1) of Directive 2006/112 provides that a ‘supply of goods’ is to mean the transfer of the right to dispose of tangible property as owner. That concept covers any transfer of tangible property by one party which empowers the other party actually to dispose of it as if he or she were

its owner (judgment of 20 April 2023, *Dyrektor Krajowej Informacji Skarbowej*, C?282/22, EU:C:2023:312, paragraph 33 and the case-law cited).

22 Thus, the transaction consisting of the supply of electricity to the batteries of an electric vehicle constitutes a supply of goods, in so far as that transaction enables the user of the charging point to consume, in order to propel his or her vehicle, the electricity transferred, which, under Article 15(1) of Directive 2006/112, is to be treated as tangible property (judgment of 20 April 2023, *Dyrektor Krajowej Informacji Skarbowej*, C?282/22, EU:C:2023:312, paragraph 38).

23 Consequently, the answer to the first question is that Article 14(1) of Directive 2006/112, read in conjunction with Article 15(1) of Directive 2006/112, must be interpreted as meaning that the supply of electricity for the purposes of charging an electric vehicle at a charging point forming part of a public network of such points constitutes a supply of goods within the meaning of the former provision.

The second question

24 By the second question, the referring court asks, in essence, whether Article 14 of Directive 2006/112, read in conjunction with Article 15(1) thereof, must be interpreted as meaning that the charging of an electric vehicle at a network of public charging points to which the user has access through a subscription concluded with a company other than the operator of that network entails that the electricity consumed is deemed to have been supplied, first, by the operator of that network to the company offering access thereto and, second, by that company to that user, even if the latter chooses the quantity, time and place of that charging as well as the manner of use of the electricity.

25 In stating that the users of electric vehicles choose the quantity, time and place of that charging as well as the manner of use of the electricity, the second question reflects that court’s queries as to the scope of the case-law referred to in paragraph 16 above, according to which, given those circumstances, Digital Charging Solutions could be viewed not as supplying a good to those users but as, in reality, performing the functions of a supplier of credit in respect of those users.

26 It should be noted in that regard that the concept of ‘supply of goods’ does not refer to the transfer of ownership in accordance with the procedures prescribed by the applicable national law, but covers any transfer of tangible property by one party which empowers the other party actually to dispose of it as if that party were its owner (judgments of 18 July 2013, *Evita-K*, C?78/12, EU:C:2013:486, paragraph 33, and of 21 November 2013, *Dixons Retail*, C?494/12, EU:C:2013:758, paragraph 20).

27 The transfer of the right to dispose of tangible property as owner within the meaning of Article 14(1) of Directive 2006/112 does not require the party to whom the tangible property is transferred to be in physical possession of it, or that the tangible property be physically transported to that party and/or physically received by that party (order of 15 July 2015, *Koela-N*, C?159/14, EU:C:2015:513, paragraph 38).

28 Thus, the same goods may be the subject of two successive sales within the meaning of Article 14(1) of Directive 2006/112 when they are transported directly, on instructions, from the first vendor to the second person acquiring the goods (see, to that effect, judgment of 10 July 2019, *Kuršu zeme*, C?273/18, EU:C:2019:588, paragraph 36).

29 Those assessments are also valid for electricity which, as observed in paragraph 22 above, is treated as tangible goods under Article 15(1) of Directive 2006/112.

30 That being so, it should be recalled, in order to answer the second question, that taking into account the economic reality which is, in principle, reflected in the contractual agreements, constitutes a fundamental criterion for the application of the common VAT system (see, to that effect, judgments of 20 February 1997, *DFDS*, C?260/95, EU:C:1997:77, paragraph 23, and of 28 February 2023, *Fenix International*, C?695/20, EU:C:2023:127, paragraph 72 and the case-law cited).

31 In that regard, it is apparent from the information provided by the referring court that the operators of the charging points have contractual connections only with Digital Charging Solutions and that, according to the appurtenant agreements, that company provides users who have chosen to do business with it with cards and an application for authentication giving access to that network, thereby enabling users to charge their electric vehicles at points which are part of that network. As stated in paragraphs 11 and 12 above, the operators that operate those charging points invoice Digital Charging Solutions monthly for the cost of the electricity supplied and the latter in turn invoices the users, also monthly, for that cost, to which is added payment for connected services, through a fee, the amount of which is not contingent on the quantity of electricity supplied (and therefore the cost of the electricity) or on the number of charging sessions.

32 As observed, in essence, by the Advocate General in point 39 of her Opinion, the circumstances in the case in the main proceedings differ from those of the cases which gave rise to the judgments of 6 February 2003, *Auto Lease Holland* (C?185/01, EU:C:2003:73), and of 15 May 2019, *Vega International Car Transport and Logistic* (C?235/18, EU:C:2019:412).

33 In that regard, as regards the first of those cases, the Court observes that the vehicle fuelling the transaction at issue in that case was part of a leasing contract and that, in that context, the Court took account of the fact that, unlike the invoicing methods at issue in the present case, the monthly payments made to the leasing company were merely an advance, with the actual consumption being established at year-end, and went on to find that the fuel management agreement was a financing contract, if only a partial one, for the purchase of fuel and that the leasing company was, in reality, acting as a supplier of credit vis-à-vis the lessee (see, to that effect, judgment of 6 February 2003, *Auto Lease Holland*, C?185/01, EU:C:2003:73, paragraphs 35 and 36). As regards the second case, suffice it to note that nor are the circumstances at issue in the main proceedings in the present case analogous to those in which a parent company decides that its subsidiaries' fuel purchases are to be effected using fuel cards provided by it to them, which cards may be used at service stations of the suppliers indicated by that parent company (judgment of 15 May 2019, *Vega International Car Transport and Logistic*, C?235/18, EU:C:2019:412, paragraphs 14 and 36).

34 The absence of a credit mechanism enabling electricity purchases to be pre-financed is corroborated by the methods for fixing the payment stipulated between the users of the charging points and Digital Charging Solutions. As observed in paragraph 31 above, nor does that company collect any payment consisting in a percentage of the amount of invoiced electricity consumption, but rather a fixed fee, independent of the quantity of electricity supplied to the user or the number of charging sessions.

35 It follows that although, as was the situation in the cases which gave rise to the judgments referred to in paragraph 33 above, it is the user who decides when, where and how much electricity he or she purchases, the guidance provided by those judgments are not transposable to the context of the main proceedings.

36 In the present case, as emphasised by the Advocate General in point 52 of her Opinion, the contractual stipulations between the charging point operators and Digital Charging Solutions, on the one hand, and between the latter and the users of those points, on the other, imply, according to the information provided by the referring court, that it is the users who initiate, at their discretion, the supply of electricity at the place, time and in the quantity of their choice. Digital Charging Solutions, for its part, does not undertake with the operators of the network comprising those points to purchase, autonomously and independently of the users' decisions, any quantity whatsoever of electricity, but seems to play the role of an intermediary, as evidenced by the very wording of the second question.

37 In those circumstances, it is appropriate to examine that configuration of contractual relationships in the light of Article 14(2)(c) of Directive 2006/112, which governs the transfer of goods pursuant to a contract under which commission is payable on purchase or sale and which constitutes, as against the general definition set out in Article 14(1) thereof, a *lex specialis*, the conditions for the application of which are independent of those in paragraph 1 (see, to that effect, judgment of 25 February 2021, *Gmina Wroc?aw (Transformation of the right of usufruct)*, C?604/19, EU:C:2021:132, paragraph 55 and the case-law cited).

38 The application of Article 14(2)(c) of Directive 2006/112 requires two conditions to be satisfied. First, there has to be an agency in performance of which the commission agent acts on behalf of the principal in the supply of goods and, second, the supplies of goods acquired by the commission agent and the supplies of goods sold or transferred to the principal must be identical (see, to that effect, judgment of 12 November 2020, *ITH Comercial Timi?oara*, C?734/19, EU:C:2020:919, paragraph 51).

39 If those two conditions are satisfied, Article 14(2)(c) of Directive 2006/112 creates a legal fiction of two identical supplies of goods made consecutively, which fall within the scope of VAT. Under that fiction, a taxable person who, acting in his or her own name but on behalf of another person, takes part in a supply of services, is deemed to have received and supplied those services himself or herself (see, to that effect, judgment of 12 November 2020, *ITH Comercial Timi?oara*, C?734/19, EU:C:2020:919, paragraphs 49 and 50 and the case-law cited).

40 In such a scenario, under Article 14(2)(c) of Directive 2006/112, the taxable person in question plays a certain economic role in the supply of goods in question, which enables that person to be categorised as an intermediary acting in his or her own name but on behalf of someone else (see, to that effect, judgment of 19 February 2009, *Athesia Druck*, C?1/08, EU:C:2009:108, paragraphs 35 and 36).

41 It should also be noted that it is on the nature of a commission contract for the purchase of electricity for the purpose of charging an electric vehicle that the choice of quality, quantity, time and manner of use of the electricity is up to the user of the charging point and not the commission agent.

42 In the present case, the possibility cannot be ruled out that the connections at issue in the present case may be analysed as commission contracts for purchase concluded between the operators of charging point networks, as principals, and Digital Charging Solutions, as the commission agent, under which those operators confer on the latter an agency to sell electricity, in

its own name but on their behalf, to electric vehicle users. In any event, subject to factual verifications which it is for the referring court to carry out, the connections at issue in the main proceedings may also be categorised as commission contracts for purchase concluded between the users of charging points as principals, and Digital Charging Solutions, as the commission agent, under which those users confer on the latter an agency to purchase from the charging point operators, in its own name but on their behalf, electricity intended to be supplied to them for charging requirements for their electric vehicles.

43 It follows that the first condition of application of Article 14(2)(c) of Directive 2006/112 seems to be satisfied.

44 The second condition of application of that provision also appears to be satisfied, since the supplies of goods deemed to be acquired by the commission agent and the supplies of goods sold or transferred by the commission agent are identical.

45 In that regard, since the dispute in the main proceedings also concerns the question whether the supply by Digital Charging Solutions constitutes a complex transaction principally characterised by the delivery of electricity or whether that supply is composed of two distinct supplies, consisting in a supply of electricity and a supply of access to the charging points network, it is appropriate to identify the decisive factors for the purposes of such a categorisation and to set out to what extent that categorisation is liable to lead to potential consequences for the second condition of application of that provision.

46 It should be noted that, where a transaction comprises a bundle of elements and acts, regard must be had to all the circumstances in which that transaction takes place in order to determine, first, whether the transaction gives rise, for the purposes of VAT, to two or more distinct supplies or to one single supply and, second, whether, in the latter case, that single supply is to be regarded as a ‘supply of goods’ or a ‘supply of services’ (judgment of 20 April 2023, *Dyrektor Krajowej Informacji Skarbowej*, C?282/22, EU:C:2023:312, paragraph 27 and the case-law cited).

47 In particular, while it follows from the second subparagraph of Article 1(2) of Directive 2006/112 that each transaction must normally be regarded as distinct and independent, 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. In that regard, it must be held that there is a single supply where two or more elements or acts supplied by the taxable person to the customer are so closely linked that they form, objectively, a single, indivisible economic supply, which it would be artificial to split (judgment of 20 April 2023, *Dyrektor Krajowej Informacji Skarbowej*, C?282/22, EU:C:2023:312, paragraph 28 and the case-law cited).

48 Moreover, in certain circumstances, several formally distinct supplies, which could be provided separately and thus give rise, in turn, to taxation or exemption, must be considered to be a single transaction when they are not independent. That is the case where, inter alia, one or more elements are to be regarded as constituting the principal supply, while other elements are to be regarded, by contrast, as 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 supply (judgment of 20 April 2023, *Dyrektor Krajowej Informacji Skarbowej*, C?282/22, EU:C:2023:312, paragraphs 29 and 30 and the case-law cited).

49 In the context of the cooperation established by Article 267 TFEU, it is for the national courts to determine whether, in the circumstances of the particular case, the supply concerned constitutes a single supply and to make all definitive findings of fact in that regard (judgment of 20 April 2023, *Dyrektor Krajowej Informacji Skarbowej*, C?282/22, EU:C:2023:312, paragraph 31 and

the case-law cited). However, it is for the Court to provide the national courts with all the guidance as to the interpretation of European Union law which may be of assistance in adjudicating on the case pending before them (judgment of 18 April 2024, *Companhia União de Crédito Popular*, C?89/23, EU:C:2024:333, paragraph 38 and the case-law cited).

50 In the present case, as observed in paragraph 12 above, Digital Charging Solutions invoices users monthly, first, for the cost of electricity purchased by them to charge their vehicles and, second, a fixed fee by way of payment for access to the charging points network, information on electricity prices and on availability of charging points, as well as functions for locating charging points and route planning.

51 In that regard, as observed in paragraph 30 above, taking into account the economic reality as, in principle, reflected in the contractual agreements constitutes a fundamental criterion for the application of the common VAT system.

52 Consequently, the question whether the supply of electricity by a company such as Digital Charging Solutions for the purpose of charging an electric vehicle forms, together with the other supplies described in paragraph 50 above, a single complex transaction may be contingent on the conditions in which the payment for that supply and those services falls due under the appurtenant contractual agreements.

53 Thus, services providing access to charging points, technical support, reservation of a charging point, consultation of charging or credit accumulation history in a digital portfolio which are not provided in return for payment of a fee that is fixed and independent of any supply of electricity may be considered as forming, together with that supply, a single complex transaction for the purposes of VAT (see, to that effect, judgment of 20 April 2023, *Dyrektor Krajowej Informacji Skarbowej*, C?282/22, EU:C:2023:312, paragraph 32).

54 However, as observed by the Advocate General in points 24 to 29 of her Opinion, where payment for those other supplies must be paid by the user in the form of a fixed fee which is separate and payable on a monthly basis, irrespective of any supply of electricity, it must be held, subject to verifications which it is for the referring court to carry out, that those services are distinct and independent of the supply of electricity properly speaking.

55 In such circumstances, considering that the services in question are indissociable from the supply of electricity or merely accessory thereto, so as to form, together with that supply, a single complex transaction, would amount to artificially disregarding the economic reality in two respects. This concerns, first, the monthly periods during which the user is not supplied electricity whilst still being required to pay, in accordance with the contractual stipulations binding him or her to Digital Charging Solutions, the fixed fee relating to those services. It concerns, second, the fact that, according to those stipulations, that fee, which is invoiced as a separate item, does not vary according to the quantity of electricity supplied to the user or according to the number of charging sessions coming within the monthly period.

56 Moreover, in so far as the user may charge his or her vehicle at charging points located in a number of Member States and, therefore, the place of supply of electricity is liable to vary with the different purchases made, considering those services as constituting an accessory element of a single complex transaction the principle supply of which consists in the supply of electricity then seems even more artificial in terms of economic realities.

57 In those circumstances, as observed by the Advocate General in point 68 of her Opinion, the supply of electricity properly speaking made by Digital Charging Solutions to the user is no different from the supply of electricity by the charging point operator to that company, with the

result that the second condition of Article 14(2)(c) of Directive 2006/112 is satisfied.

58 However, it cannot be inferred therefrom that that second condition is not satisfied if the referring court were to take the view that the supply made by Digital Charging Solutions constitutes a single complex transaction principally characterised by the supply of electricity.

59 As observed in paragraphs 47 and 48 above, such a categorisation results from the fact that the other services provided by that company are considered to be indissociable from the supply of electricity or merely accessory thereto. Consequently, those services, which justify the intermediary's payment, are merely intended to enable the electricity which was the object of the supply of goods deemed made by the operator of that charging point to that intermediary to be supplied to the user of a charging point.

60 In the light of the foregoing, the answer to the second question is that Article 14 of Directive 2006/112, read in conjunction with Article 15(1) thereof, must be interpreted as meaning that the charging of an electric vehicle at a network of public charging stations to which the user has access through a subscription concluded with a company other than the operator of that network entails that the electricity consumed is deemed to have been supplied, first, by the operator of that network to the company offering access thereto and, second, by that company to that user, even if the latter chooses the quantity, time and place of that charging as well as the manner of use of the electricity, when that company acts in its own name but on behalf of the user under a commission contract within the meaning of Article 14(2)(c) of that directive.

Costs

61 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 (Fifth Chamber) hereby rules:

1. **Article 14(1) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, as amended by Council Directive 2009/162/EU of 22 December 2009, read in conjunction with Article 15(1) of Directive 2006/112, as amended,**

must be interpreted as meaning that the supply of electricity for the purposes of charging an electric vehicle at a charging point forming part of a public network of such points constitutes a supply of goods within the meaning of the former provision.

2. **Article 14 of Directive 2006/112, as amended by Directive 2009/162, read in conjunction with Article 15(1) of Directive 2006/112, as amended,**

must be interpreted as meaning that the charging of an electric vehicle at a network of public charging points to which the user has access through a subscription concluded with a company other than the operator of that network entails that the electricity consumed is deemed to have been supplied, first, by the operator of that network to the company offering access thereto and, second, by that company to that user, even if the latter chooses the quantity, time and place of that charging as well as the manner of use of the electricity, when that company acts in its own name but on behalf of the user under a commission contract within the meaning of Article 14(2)(c) of Directive 2006/112, as amended.

[Signatures]

* Language of the case: Swedish.