

Parties to the main proceedings

Applicant: Valsts ieņēmumu dienests

Other party: 'Altic' SIA

Operative part of the judgment

1. Article 168(a) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, as amended by Council Directive 2010/45/EU of 13 July 2010, must be interpreted as precluding a taxable person who participates in the food chain from being refused the right to deduct input value added tax (VAT) on the sole ground, assuming that it has been duly established, that that taxable person has not complied with his obligations under Article 18(2) of Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety, to identify his suppliers for the purposes of traceability of foodstuffs, which it is for the referring court to ascertain. Non-compliance with those obligations may, however, constitute one element among others which, taken together and in a consistent manner, tend to show that the taxable person knew or should have known that he was involved in a transaction involving VAT fraud, which it is for the referring court to assess.
2. Article 168(a) of Directive 2006/112, as amended by Directive 2010/45, must be interpreted as meaning that the failure, by a taxable person who participates in the food chain, to ascertain that his suppliers are registered with the competent authorities, in accordance with Article 6(2) of Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs and Article 31(1) of Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules, is not relevant for the purpose of determining whether the taxable person knew or should have known that he was involved in a transaction involving VAT fraud.

(¹) OJ C 276, 6.8.2018.

Judgment of the Court (Eighth Chamber) of 3 October 2019 (request for a preliminary ruling from the Bundesverwaltungsgericht — Germany) — Landwirtschaftskammer Niedersachsen v Reinhard Westphal

(Case C-378/18) (¹)

(Reference for a preliminary ruling — Regulation (EC, Euratom) No 2988/95 — Protection of the European Union's financial interests — Article 3(1) — Limitation period — Regulations (EEC) No 3887/92 and (EC) No 2419/2001 — Integrated administration and control system for certain Community aid schemes — Recovery of undue payments — Application of the more lenient limitation rule)

(2019/C 413/19)

Language of the case: German

Referring court

Bundesverwaltungsgericht

Parties to the main proceedings

Applicant: Landwirtschaftskammer Niedersachsen

Defendant: Reinhard Westphal

Operative part of the judgment

Article 49(6) of Commission Regulation (EC) No 2419/2001 of 11 December 2001 laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes established by Council Regulation (EEC) No 3508/92, as amended by Commission Regulation (EC) No 118/2004 of 23 January 2004, must be interpreted as meaning that the starting point of the limitation period which it lays down is determined in accordance with Article 3(1) of Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests and corresponds, in the case of continuous or repeated irregularities, to the day on which the irregularity ceases.

(¹) OJ C 301, 27.8.2018.

Judgment of the Court (Eighth Chamber) of 3 October 2019 (request for a preliminary ruling from the Conseil d'État — Belgium) — Fonds du Logement de la Région de Bruxelles-Capitale SCRL v Institut des Comptes nationaux (ICN)

(Case C-632/18) (¹)

(Reference for a preliminary ruling — Economic and monetary policy — European system of national and regional accounts in the European Union — Regulation (EU) No 549/2013 — General government sector — Captive financial institution — Definition — Company offering, under the control of a public administration, mortgage loans to households with medium or modest incomes)

(2019/C 413/20)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Applicant: Fonds du Logement de la Région de Bruxelles-Capitale SCRL

Defendant: Institut des Comptes nationaux (ICN)

Operative part of the judgment

1. The provisions of Annex A to Regulation (EU) No 549/2013 of the European Parliament and of the Council of 21 May 2013 on the European system of national and regional accounts in the European Union must be interpreted as meaning that, in order to determine whether a separate institutional entity placed under government control should be classified in the general government sector, within the meaning of the revised European system of accounts established by that regulation, where it has the characteristics of a captive financial institution, it is necessary to examine its exposure to economic risk in the exercise of its activity;