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ECJ: Joint and several liability of customer for VAT originally not paid the supplier

In a Czech request for a preliminary ruling, the European Court of Justice (ECJ) dealt with the joint and several liability of the recipient of a supply who supposedly was involved in VAT fraud for VAT not paid by the supplier. According to the judgment of the ECJ, Article 205 of the VAT Directive does not prevent the recipient from being held liable under such circumstances.

Background

Konreo is the insolvency administrator of FAU, a company established under Czech law. In 2013, FAU purchased fuel from Verami, another company established under Czech law. Following an external audit, the tax authorities found evidence of tax evasion in the chain of trade involving Verami and FAU. Later, the tax authorities issued tax assessment notices against Verami claiming additional VAT (back payment) and refused the deduction of VAT incurred on the purchase of the fuel which it had subsequently supplied to FAU.

The referring court asked the ECJ whether it is consistent with the principle of proportionality to apply, concurrently and for the same commercial transactions, joint and several liability for the payment of unpaid VAT and the refusal of the right to deduct VAT on account of participation in tax evasion. Article 205 provides that Member States may, in the cases specified therein, determine that a person other than the person liable for payment of the tax shall be jointly and severally liable for payment of the tax.

ECJ decision

The ECJ held that Article 205 must be interpreted as meaning that *“it does not preclude a national practice which imposes a joint and several obligation on the taxable person who is the recipient of a supply of goods for consideration to pay the value added tax (VAT) due from the supplier of those goods even though the recipient of that supply of goods has been denied the right to deduct the input VAT due or paid on the ground that he knew or ought to have known that he was involved in VAT fraud”*.

Both the refusal of the right to deduct VAT and joint and several liability under Article 205 pursue two distinct and complementary objectives, consisting, respectively, of combating tax evasion and ensuring for the public exchequer the efficient collection of VAT from the most appropriate persons, in particular in a situation of evasion. Requiring the tax authorities to apply those measures alternatively would lead it to abandon, at least in part, one of those two objectives, which cannot be justified in the case of taxable persons who knew or ought to have known that they were participating in tax evasion.

The imposition on a taxable person receiving a supply of goods for consideration of a joint and several obligation to pay the VAT payable by the taxable person supplying those goods, in a situation such as that in the main proceedings, does not result in unjust enrichment of the tax authorities. By refusing, on the one hand, to the first taxable person, the right to deduct VAT in a situation where that taxable person knew or ought to have known that he, she or it was participating in tax evasion, and, on the other hand, designating that first taxable person as being jointly and severally liable for payment of the VAT due from the second taxable person, the tax authorities are merely taking measures which may enable them to obtain payment of the separate amounts of VAT due to them from those two taxable persons.

More details to be found [here](#) (ECJ judgment of 10 July 2025 C?276/24 KONREO).

Schlagwörter

VAT fraud, liability for VAT