



## Reports of Cases

### Order of the Court (Tenth Chamber) of 16 May 2013 — Hardimpex

(Case C-444/12)

(Taxation — VAT — Directive 2006/112/EC — Principle of fiscal neutrality — Right to deduction — Refusal — Suspicious transactions — Fraud committed at an earlier point — Burden of proof)

1. *Questions referred for a preliminary ruling — Answer admitting of no reasonable doubt — Questions the answer to which may be clearly deduced from the Court's existing case-law — Application of Article 99 of the Rules of Procedure (Rules of the procedure of the Court of Justice, Art. 99) (see para. 13)*
2. *Harmonisation of fiscal legislation — Common system of value added tax — Deduction of input tax — Obligations of the taxable person — National practice refusing a taxable person the right to deduct in the event of irregularities committed by the issuer of the invoice — Refusal rejected notwithstanding fulfilment of substantive conditions for the right to deduct and in the absence of material justifying the suspicion that irregularities or fraud have been committed by the issuer — Not permissible — Conditions — Verification a matter for the national court (Council Directive 2006/112, Art. 168(a)) (see paras 24, 28, 29, 31, operative part)*
3. *Harmonisation of fiscal legislation — Common system of value added tax — Deduction of input tax — National practice refusing a taxable person the right to deduct in the event of irregularities committed by the issuer of the invoice or one of his suppliers — Not permissible — Limits — Conditions (Council Directive 2006/112, Art. 168(a)) (see para. 31, operative part)*

#### Re:

Request for a preliminary ruling — Fővárosi Törvényszék — Interpretation of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1) — Deduction of input tax — Delivery by the issuer of the invoice of goods of unknown origin — Unlawful conduct of other undertakings intervening earlier in the supply chain — Evidential obligations of the tax authority.

**Operative part**

Article 168(a) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as meaning that it precludes a tax authority of a Member State from refusing a taxable person the right to deduct from the amount of VAT which it owes the amount of VAT paid or to be paid on a supply of goods to it, because an earlier transaction in the chain of supply was irregular under the VAT legislation or because that taxable person can be criticised for having failed to check the origin of the goods featuring in the invoices issued by its supplier, without the tax authority demonstrating to the requisite legal standard that the taxable person knew or should have known of that irregularity.