



C/2024/6892

25.11.2024

Judgment of the Court (Fourth Chamber) of 4 October 2024 (request for a preliminary ruling from the Upravni sud u Zagrebu – Croatia) – UP CAFFE d.o.o. v Ministarstvo financija Republike Hrvatske

(Case C-171/23, ⁽¹⁾ UP CAFFE)

(Reference for a preliminary ruling – Taxation – Common system of value added tax (VAT) – Directive 2006/112/EC – Point 19 of Article 287 – VAT exemption scheme for small enterprises – Abusive practice by forming a new company)

(C/2024/6892)

Language of the case: Croatian

Referring court

Upravni sud u Zagrebu

Parties to the main proceedings

Applicant: UP CAFFE d.o.o.

Defendant: Ministarstvo financija Republike Hrvatske

Operative part of the judgment

Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, as amended by Council Directive (EU) 2016/856 of 25 May 2016, read in the light of the principle of the prohibition of abusive practices, must be interpreted as meaning that, where it is established that the formation of a company constitutes an abusive practice intended to maintain the benefit of the value added tax exemption scheme laid down in point 19 of Article 287 of that Directive 2006/112, in respect of an activity previously carried out, under that scheme, by another company, that Directive 2006/112 requires that the company accordingly formed cannot benefit from that scheme, even in the absence of specific provisions laying down the prohibition of such abusive practices in the national legal system.

⁽¹⁾ OJ C 179, 22.5.2023.