



Judgment of the Court (Ninth Chamber) of 12 December 2024 (request for a preliminary ruling from the rechtbank van eerste aanleg Oost-Vlaanderen, afdeling Gent – Belgium) – Dranken Van Eetvelde NV v Belgische Staat

(Case C-331/23, (1) Dranken Van Eetvelde)

(Reference for a preliminary ruling – Taxation – Common system of value added tax (VAT) – Directive 2006/112/EC – Article 205 – Joint and several liability for tax debts owed by a third party – Conditions and scope of liability – Fight against VAT fraud – Joint and several liability for the payment of VAT which does not allow an assessment to be made on the basis of the contribution of each taxable person in the tax evasion – Principle of proportionality – Article 50 of the Charter of Fundamental Rights of the European Union – Principle non bis in idem – Criteria for application – Facts relating to different tax years against which administrative or criminal proceedings are brought – Continuing offence with unity of purpose – Facts not identical)

(C/2025/693)

Language of the case: Dutch

Referring court

Rechtbank van eerste aanleg Oost-Vlaanderen, afdeling Gent

Parties to the main proceedings

Applicant: Dranken Van Eetvelde NV

Defendant: Belgische Staat

Operative part of the judgment

1. Article 205 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, read in the light of the principle of proportionality, must be interpreted as not precluding a national provision which, in order to ensure the collection of value added tax, provides for the strict joint and several liability of a taxable person other than the person who would normally be liable for that tax without, however, the court having jurisdiction being able to exercise a discretion on the basis of the contribution of the various persons involved in tax evasion, provided that that taxable person has the option of establishing that he or she took every measure which could reasonably be required of him or her to ensure that the transactions which he or she carried out were not part of that evasion.
2. Article 205 of Directive 2006/112, read in the light of the principle of fiscal neutrality, must be interpreted as not precluding a national provision which imposes a joint and several obligation to pay value added tax (VAT) on a taxable person other than the person who would normally be liable for that tax, without account being taken of the latter's right to deduct input VAT due or paid.
3. Article 50 of the Charter of Fundamental Rights of the European Union must be interpreted as not precluding national legislation which allows criminal penalties and administrative penalties of a criminal nature, resulting from different proceedings, to be combined in respect of offences which are of the same nature yet occurred over consecutive tax years, which are the subject of administrative proceedings of a criminal nature for one tax year and criminal proceedings for another tax year.

⁽¹⁾ OJ C 314, 4.9.2023.