

**Judgment of the Court (First Chamber) of 30 September 2021 (request for a preliminary ruling from the Conseil d'État — France) — Icade Promotion SAS, formerly Icade Promotion Logement SAS v Ministère de l'Action et des Comptes publics**

(Case C-299/20) <sup>(1)</sup>

*(Reference for a preliminary ruling — Taxation — Common system of value added tax (VAT) — Directive 2006/112/EC — Article 392 — Margin taxation scheme — Scope — Supply of buildings and building land purchased for resale — Taxable person for whom the VAT on the purchase of buildings was not deductible — Resale subject to VAT — Concept of 'building land')*

(2021/C 481/20)

*Language of the case: French*

**Referring court**

Conseil d'État

**Parties to the main proceedings**

*Applicant:* Icade Promotion SAS, formerly Icade Promotion Logement SAS

*Defendant:* Ministère de l'Action et des Comptes publics

**Operative part of the judgment**

1. Article 392 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as allowing the margin scheme to be applied to transactions involving the supply of building land both where the purchase thereof was subject to value added tax (VAT), without the taxable person who sold it being entitled to deduct that tax, and where the purchase of that property was not subject to VAT even though the price at which the taxable dealer purchased those goods incorporated an amount of VAT, paid as input VAT by the initial seller. However, apart from in the latter situation, that provision does not apply to transactions involving the supply of building land on whose initial purchase no VAT was paid, either because that purchase is not subject to VAT or because an exemption applies;
2. Article 392 of Directive 2006/112 must be interpreted as precluding the application of the margin scheme to transactions involving the supply of building land where that purchased land which has not been built on has become, between the time of its purchase and the time at which it is resold by the taxable person, building land. That provision does not, however, preclude the application of the margin scheme to transactions involving the supply of building land where that land has been subject, between the time of its purchase and the time at which it is resold by the taxable person, to alterations such as its partitioning into lots or the carrying out of works for the connection of those lots to grids and networks, including, inter alia, the gas and electricity networks.

<sup>(1)</sup> OJ C 297, 7.9.2020.

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**Appeal brought on 21 July 2021 by the Grand Duchy of Luxembourg against the judgment of the General Court (Second Chamber, Extended Composition) delivered on 12 May 2021 in Joined Cases T-516/18 and T-525/18,**

**Grand Duchy of Luxembourg and Engie Global LNG Holding and Others v Commission**

(Case C-451/21 P)

(2021/C 481/21)

*Language of the case: French*

**Parties**

*Appellant:* Grand Duchy of Luxembourg (represented by: A. Germeaux and T. Uri, acting as Agents, and D. Waelbroeck and J. Bracker, avocats)

*Other parties to the proceedings:* European Commission, Ireland