

Parties to the main proceedings

Applicant: DOMUS-Software-AG

Defendant: Marc Braschoß Immobilien GmbH

Operative part of the judgment

Article 6(1) of Directive 2011/7/EU of the European Parliament and of the Council of 16 February 2011 on combating late payment in commercial transactions, read in conjunction with Article 3 of that directive,

must be interpreted as meaning that:

where a single contract provides for periodic deliveries of goods or provision of services, each requiring payment within a specified period, the fixed minimum sum of EUR 40 by way of compensation for recovery costs is payable to the creditor for each late payment.

⁽¹⁾ OJ C 349, 30.8.2021.

Judgment of the Court (Seventh Chamber) of 8 December 2022 (request for a preliminary ruling from the Bundesfinanzgericht — Austria) — P GmbH v Finanzamt Österreich

(Case C-378/21) ⁽¹⁾

(Reference for a preliminary ruling — Harmonisation of fiscal legislation — Common system of value added tax (VAT) — Directive 2006/112/EC — Article 203 — Adjustment of the VAT return — Recipients of services who are not entitled to make deductions — No risk of loss of tax revenue)

(2023/C 35/11)

Language of the case: German

Referring court

Bundesfinanzgericht

Parties to the main proceedings

Applicant: P GmbH

Defendant: Finanzamt Österreich

Operative part of the judgment

Article 203 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, as amended by Council Directive (EU) 2016/1065 of 27 June 2016

must be interpreted as meaning that a taxable person who has supplied a service and who has stated on the invoice an amount of value added tax (VAT) calculated on the basis of an incorrect rate is not liable, under that provision, for the part of the VAT invoiced incorrectly if there is no risk of loss of tax revenue on the ground that the recipients of that service are exclusively final consumers who do not have a right to deduct input VAT.

⁽¹⁾ OJ C 349, 30.8.2021.