



Reports of Cases

Case C-519/21

ASA

v

DGRFP Cluj

(Request for a preliminary ruling from the Curtea de Apel Cluj)

Judgment of the Court (Seventh Chamber) of 16 February 2023

(Reference for a preliminary ruling – Common system of value added tax (VAT) – Directive 2006/112/EC – Construction of a building complex by an association without legal personality – Association contract – Sale of the apartments of that building complex by certain members – Determination of the taxable person liable for the tax – Principle of fiscal neutrality – Right to deduct VAT)

1. *Harmonisation of fiscal legislation – Common system of value added tax – Taxable persons – Concept – Natural persons who are parties to a contract relating to an association without legal personality – Construction of a building complex for the purpose of selling completed apartments to third parties*
(Council Directive 2006/112, Arts 9 and 11)

(see paragraphs 63, 65, 69-71, 75-77, 78, 91, operative part 1)

2. *Harmonisation of fiscal legislation – Common system of value added tax – Deduction of input tax – Right of deduction – Taxable person which is a party to a contract relating to an association without legal personality but does not hold an invoice issued in its name – No objective evidence that the goods and services have been provided as inputs for the purposes of its own transactions subject to value added tax*
(Council Directive 2006/112, Arts 167, 168, 178 and 226)

(see paragraphs 93-100, 103, operative part 2)

See the text of the decision.