Judgment of the Court (Eighth Chamber) of 8 December 2022 (request for a preliminary ruling from the Verwaltungsgerichtshof — Austria) — Luxury Trust Automobil GmbH v Finanzamt Österreich

(Case C-247/21) ([1])

(Reference for a preliminary ruling — Value added tax (VAT) — Directive 2006/112/EC — Article 42(a) — Article 197(1)(c) — Article 226(11a) — Article 141 — Exemption — Triangular transaction — Designation of the final recipient of a supply as being liable for VAT — Invoicing — Reference to 'Reverse charge' — Mandatory — Omission of that reference on an invoice — Retroactive correction of the invoice)

(2023/C 35/08)

Language of the case: German

Referring court

Verwaltungsgerichtshof

Parties to the main proceedings

Applicant: Luxury Trust Automobil GmbH

Defendant: Finanzamt Österreich

Operative part of the judgment

1. Article 42(a) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, as amended by Council Directive 2010/45/EU of 13 July 2010, read in conjunction with Article 197(1)(c) of Directive 2006/112, as amended,

must be interpreted as meaning that, in a triangular transaction, the final customer has not been validly designated as liable for the value added tax (VAT) where the invoice issued by the intermediary acquiring the goods does not contain the words 'Reverse charge', referred to in Article 226(11a) of Directive 2006/112, as amended.

2. Article 226(11a) of Directive 2006/112, as amended by Directive 2010/45,

must be interpreted as meaning that the omission, on an invoice, of the words 'Reverse charge', required under that provision, may not subsequently be corrected by adding a statement that that invoice relates to an intra-Community triangular transaction and that the tax liability is transferred to the person to whom the supply is made.

([1]) OJ C 263, 5.7.2022.