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Request for a preliminary ruling from the Tribunal de première instance du Luxembourg (Belgium)
lodged on 21 June 2022 — SA CEZAM v Belgian State

(Case C-418/22)

(2022/C 359/50)

Language of the case: French

Referring court

Tribunal de première instance du Luxembourg

Parties to the main proceedings

Applicant: SA CEZAM

Defendant: Belgian State

Questions referred

1.

Do Articles 62[(2)], 63, 167, 206, 250 and 273 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (1) and the principle of proportionality, as interpreted, in particular, in the judgment of the Court of Justice of 8 May 2019, EN.SA (C-712/17), taken together with the principle of neutrality, preclude provisions of national legislation such as Article 70[(1)] of the VAT Code, Article 1 of and part V of Table G in the annex to Royal Decree No 41 setting the amounts of the proportionate tax penalties in relation to value added tax, pursuant to which:

—

in the event of errors as to content discovered on the inspection of accounts,

—

and in order to sanction the failure, in whole or in part, to enter taxable transactions in relation to which the amount of tax due is greater than EUR 1 250 euros,

that infringement is penalised by a flat-rate fine at a reduced rate of 20 % of the tax due, without it being possible, for the purposes of calculating the fine, to deduct therefrom any input tax paid, on account of the fact that it has not been deducted because no return was submitted, where,

pursuant to [Article 1(2) of] Royal Decree No 41, the scale of reductions set out in Tables A to J of the annex to that decree applies only where the infringements sanctioned have been committed without any intention to evade or to facilitate the evasion of the tax?

2.

Is the answer to that question different if the taxable person has, voluntarily or otherwise, paid the amount of tax that has become chargeable following the inspection, so as to make good the shortfall in payment of the tax and thereby to allow the attainment of the objective of ensuring the correct collection of the tax?

(1) OJ 2006 L 347, p. 1.