

ECJ Decides on Right to Deduct VAT Related to Acquisitions of Trademarks Made Under False Pretences: *Dyrektor Izby Administracji Skarbowej w Warszawie (TVA – Acquisition fictive)* (Case C-114/22) (VAT)

25 May 2023

Report from IBFD Knowledge Centre

On 25 May 2023, the Court of Justice of the European Union (ECJ) gave its decision in *Dyrektor Izby Administracji Skarbowej w Warszawie v. W. Sp. z o.o.* (Case C-114/22) based on a number of grounds.

"On those grounds, the Court (Tenth Chamber) hereby rules:

Article 167, Article 168(a), Article 178(a) and Article 273 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 the light of the principles of fiscal neutrality and proportionality, must be interpreted as precluding national legislation under which a taxable person is deprived of the right to deduct input value added tax solely because a taxable economic transaction is regarded as fictitious and invalid under the provisions of national civil law, without it being necessary to establish that the criteria for classifying, under EU law, that transaction as fictitious are met or, where that transaction has actually been carried out, that it is the result of value added tax evasion or abuse of rights.

For a previous TNS report regarding the case, see [European Union-1, News 25 July 2022](#)."

A more substantial report containing details of the ECJ's decision will be published in the ECJ Case Law collection in due course.