SECTION III
EUROPEAN LAW AND PUBLIC POLICIES

REFLECTION ON THE PRINCIPLE OF TAX NEUTRALITY IN THE MATTER OF VAT IN THE JURISDICTION OF THE COURT OF JUSTICE OF THE EUROPEAN UNION (CJEU)

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Abstract

In this article, the author analyzes the principle of VAT neutrality as reflected in the rulings of the Court of Justice of the European Union or in the Opinion of the Advocate General, which presupposes the existence of a general consumption tax on goods and services, directly proportional to the price regardless of the number of transactions that take place in the production and distribution process before the tax collection stage. The study aims at an exposition of the most current normative provisions and jurisprudential solutions meant ogive efficiency to the principle of fiscal neutrality within the European Union, ensuring the collection of VAT in a uniform and non-discriminatory way in all Member States, being the only turnover tax allowed by law. European Union. The principle of fiscal neutrality has a double meaning in the matter of value added tax. Thus, in addition to the fact that that principle constitutes, first, an expression of the general principle of equal treatment, second, the principle of fiscal neutrality implies the right of the taxable person to benefit from the full exemption from value added tax on goods and services which acquired them for the exercise of its taxable activities.

Keywords: *fiscal neutrality, value added tax, abuse of rights, proportionality, transactions, jurisprudence.*

1. Introductory considerations. In the field of value added tax, the judgments of the Court of Justice of the European Union or the Opinion of the Advocate General refer to a number of fundamental principles of European Union (EU) law (the principle of subsidiarity, the principle of loyalty and the principle of non-discrimination on grounds of nationality).), as well as at a set of general principles, often applied in the field of VAT (principle of equivalence and effectiveness, principle of legitimate expectations, principle of prohibition of abuse of rights, principle of fiscal neutrality)[1]. Value added tax was first introduced in its infancy in France in 1954. Subsequently, starting in 1967, EEC member countries[2] gradually replaced their own consumption taxes with VAT and began to draw a common system of this fee for transactions between them. In Romania, VAT came to replace another existing indirect tax - "tax on the movement of goods", with the transition to a market economy, VAT being established by Ordinance no. 3/1992[3], approved by Law no. 130 of 19 December 1992[4].

The principle of the common system of value added tax presupposes the existence of a general consumption tax applied to goods and services, directly proportional to their price, regardless of the number of transactions that take place in the production and distribution process before the tax collection stage. For each transaction, value added tax, calculated on the basis of the price of goods and services according to the applicable tax rate, will be due after deduction of the amount of value added tax incurred directly through the various components reflected in the cost of goods or services[5].

Value added is the difference between the value of a good, obtained from its sale, and the value of all goods and services that have been purchased and used to make that good. At the macroeconomic level, the value added of all economic agents is the gross domestic product[6]. Value added tax is defined as that indirect tax that is applied at each stage of the economic circuit (manufacturing and distribution cycle) of a finished product, on the value added achieved (obtained) at each stage by all those who contribute to the production and selling that product until it reaches the final consumer. Legally, according to art. 265 of Law no. 227/2015 on the Fiscal Code[7], the value added tax is defined as "an indirect tax due to the state budget".

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The mechanism under which taxation operates and is enforced in this case is, in principle, as follows: throughout the manufacturing and distribution process, each economic operator pays value-added tax to its suppliers (together with the price it pays for the raw materials, materials, energy, etc. with which it is supplied for the purpose of producing goods), then collects VAT (from the buyer of his goods, who pays the tax together with the price), deducts the entire VAT related to the materials supplied and the services provided to him, and the balance is paid to the state budget. The amount representing VAT added to the selling price is shown in the accounts separately, at each stage of the economic circuit, except for the sale to the final consumer[8].

Thus, art. 401 of Directive 2006/112 / EC of 28 November 2006 on the common system of value added tax (hereinafter referred to as the VAT Directive), which entered into force on 1 January 2007, states that: *„Community law, this Directive shall not prevent any Member State from withholding or introducing taxes on insurance contracts, gambling and sports betting taxes, excise duties, stamp duties or, more generally, any taxes, duties or charges may be characterized as turnover taxes, provided that the collection of such taxes, duties and taxes does not give rise, in trade between Member States, to certain formalities relating to the crossing of frontiers".*

Recent studies at EU level show that value added tax represents 60% of a company's total contributions, given the relative independence of this tax from the company's profit and from social contributions or labor taxation. It is precisely because of these aspects that it has been recognized that VAT is a useful tool for increasing the general level of collection of taxes and duties in state budgets, but also a way to reduce the rates of direct taxes and excise duties[9]. It is estimated that VAT is able to increase budget revenues in a neutral and transparent way.

2. Fiscal neutrality in the field of value added tax. Neutrality is, in fact, one of the principles that contributes to ensuring the collection of the amount due "by right" to state budgets. In relation to VAT, according to the OECD guidelines[10], neutrality must be applied in practice as follows: the burden of value added tax itself should not fall on taxable enterprises; companies in similar situations, which carry out similar transactions, should be subject to similar levels of taxation; VAT rules must not influence economic / business decisions; With regard to the level of taxation, foreign enterprises should not be disadvantaged or advantaged in comparison with domestic affairs as regards the tax due or paid.

The rulings of the European Court of Justice or the Opinion of the Advocate General refer to the concept of fiscal neutrality of a tax that has several values [11], but the most important is the prohibition of discrimination in the tax environment, materialized in the elimination of unjustified tax burdens. and disproportionate or inappropriate compliance costs for businesses. According to the provisions of art. 1, art. 167, art. 168 and art. 169 of the VAT Directive, the neutrality of value added tax is expressed by *„... the implementation and protection of those legal solutions which ensure that a taxpayer must be able to recover the income tax resulting from his taxable activities. Any implications of the concept of fiscal neutrality, which are beneficial for taxpayers, are treated in the doctrine of Community law as a fundamental right of the taxpayer and not as a privilege of the taxpayer ".*

In *Commission v. Italy*[12], the Court referred to the principle of fiscal neutrality in arguing that Italian legislation allowing double taxation was contrary to the Sixth Directive. The taxation of a supply of services in a Member State, after VAT has been levied in the State of the service provider, gives rise to double taxation contrary to the principle of fiscal neutrality inherent in the common system of value added tax[13]. The Court referred to the principle of fiscal neutrality and in the context of equal treatment of taxable goods, as follows from the judgment in *Commission v. France*[14] showing that the introduction and maintenance of reduced VAT rates, below the standard threshold provided by art. 12 (3) (a) of

the Sixth Directive is permitted only in so far as it complies with the principle of fiscal neutrality inherent in the common system of value added tax, which prohibits the different treatment of similar goods in competition with VAT. with each other[15].

On another occasion[16], the Court also emphasized the need to ensure the equality of economic operators as the principle of fiscal neutrality prohibits, *inter alia*, economic operators carrying out the same activities from being treated differently from the point of view of VAT. It follows that the principle would have been ignored if the possibility of benefiting from the exemption provided by art. 13A (1) (c) for the provision of medical services would depend on the legal form of the taxable person carrying out that activity. In the same vein, the Court's judgment in the *Card Protection Plan* case[17] can be taken into account, dealing with the tax-neutral treatment of legal and unlawful acts, as the Sixth Directive is based on the principle of fiscal neutrality. VAT, prohibits, except in certain cases, that lawful transactions and illicit transactions be treated differently.

The Luxembourg judges also applied the principle of fiscal neutrality in a case in which the issue of VAT mentioned in error was put on an invoice, pointing out that the Sixth Directive does not contain an express provision for the situation in which VAT is mentioned. by mistake in an invoice, without being due[18]. Consequently, as long as this gap has not been filled by Community law, it is up to the Member States to provide a solution in this regard. The Court pointed out that, in order to ensure VAT neutrality, Member States have a duty to regulate in the domestic legal system the possibility of correcting any amount mentioned in error if the issuer proves that he acted in good faith. However, if the issuer of the invoice has eliminated the risk of any loss of public revenue, VAT which has been invoiced in error may be adjusted without such adjustment being conditional on the issuer of the invoice in question acting in good faith. Under the common system of VAT, Member States are required to ensure compliance with the obligations incumbent on taxable persons and to enjoy a margin of discretion in that regard, in particular as regards the use of the means at their disposal.

3. Materialization of the principle of tax neutrality - the right to deduct VAT. In the national legislation, the deductibility of value added tax is regulated exclusively by Title VII, Chapter X of the Fiscal Code (art. 297-306). Three conditions, expressly mentioned, must be met by the person wishing to exercise this right. These conditions refer to the quality of taxable person, to the use of goods or services for the purpose of economic activities and to the invoice issued in accordance with the legal provisions. As such, the right to deduct is the right recognized by law to taxable persons paying VAT, recipients of supplies of goods and services, of a refund of the tax related to those transactions[19].

According to doctrinal opinions[20], VAT "works in the same way as a transitional account" - a kind of payment. In other words, the taxable person not only buys the goods and services but also buys a claim on the budget, which diminishes his future tax debt. According to settled case-law, the right to deduct is a fundamental principle of the common system of VAT which, in principle, cannot be limited and which is immediately applicable to all taxes on upstream transactions[21].

As regards the substantive conditions necessary for the birth of the right to deduct, in order to be entitled to that right, on the one hand, the person concerned must be a taxable person and, on the other hand, as the goods and services relied on to justify that right to be used downstream by the taxable person for the purposes of his taxable transactions and that, upstream, those goods are delivered or those services are provided by another taxable person.

In order to deduct the value added tax, with regard to the formal conditions, it is necessary for the persons concerned to prove, according to the legal provisions, that they have this right[22]. As such, the taxable person will prove the right to deduct the invoice tax. The invoice is the most valuable record that must indicate the VAT paid, so that buyers have the opportunity to claim the VAT credit already paid by previous sellers. At the same time, this

facilitates the calculation of the tax and provides a "helping hand" in tax inspections. The relevant Community legislation implies that value added tax can be deducted immediately, which means that it can be deducted from the moment it is collected on an invoice. On the other hand, the tax can be deducted globally, which means that all tax collected by suppliers / providers can be deducted to the extent that the goods and services are used for the purpose of a taxable / taxable transaction.

Even if things seem quite clear, the mechanism for deducting value added tax has given rise to an extremely large number of problems. The Court of Justice of the European Union has largely addressed the issues raised by the following questions:

a). *In Case C-624/11 Stroy Trans*[23], Stroy Trans, a company engaged in the transport of goods and mechanized services by road, registered for VAT purposes in Bulgaria, deducted VAT on invoices for the purchase of diesel fuel issued by Hadzhi. and Dieseltras. The tax inspections to which the companies were subject considered that the documents submitted did not make it possible to establish the "traceability" of the fuel and that, as far as the invoices in question were concerned, no effective delivery was made, so that the conditions for deduction of VAT upstream. Therefore, Stroy Trans was denied the right to deduct the VAT in question. Subsequent litigation gave rise to several questions to the CJEU, which held that the VAT mentioned on a person's invoice was due to it regardless of the actual existence of a taxable transaction and that the principles of fiscal neutrality, proportionality and legitimate expectations must be interpreted as meaning that they do not preclude the recipient of an invoice from being denied the right to deduct value added tax upstream because of the lack of an effective taxable transaction. However, the European Court notes that the assessment of the tax authorities and national courts must be made in relation to objective factors and without requiring the recipient of the invoice to carry out checks which are not incumbent on him. he knew or should have known that the operation was involved in value added fraud.

b). *In Case C-277/14 PPUH*[24], PPUH Stehcemp made several purchases of diesel in 2004, which it used in its economic activity. The invoices for those fuel purchases were issued by the diesel supplier, and PPUH Stehcemp deducted the VAT paid on those fuel purchases. Subsequently, following an inspection, the local tax authorities did not recognize his right to deduct that VAT on the ground that the invoices relating to those fuel purchases had been issued by a non-existent operator. In the ensuing dispute, the Polish Supreme Administrative Court, seised of the appeal, asked the Court to rule on whether the provisions of the European directives preclude a national regulation prohibiting the taxable person from deducting the tax, since the invoice was issued by a non-taxable operator. the real supplier of the goods and it is not possible to establish the identity of the real supplier and oblige him to pay the tax? The Court has in fact ruled that the tax authorities cannot refuse the right to deduct on the ground that the issuer of the invoice no longer has an individual entrepreneur authorization and that, consequently, he no longer has the right to use his tax registration number then when this invoice contains all the information provided. Therefore, that consignee 'enjoys the right to deduct even if the supplier of the goods is a taxable person who is not registered for VAT purposes when the invoices relating to the goods delivered contain the information necessary to identify the person who issued those invoices and the nature of those goods[25].

c). *In Case C-664/16 LHV*[26], the Court ruled that the fundamental principle of VAT neutrality requires that the deduction of input VAT be granted if the substantive conditions are met, even if certain formal conditions have been omitted by taxable persons. Consequently, the tax authorities cannot refuse the right to deduct VAT on the sole ground that an invoice does not satisfy the conditions laid down in Article 266 (6) and (7) of the VAT Directive if it has all the information necessary to verify compliance with the substantive conditions relating to to this right. However, it is for the taxable person requesting the VAT deduction to prove that he satisfies the conditions laid down for the benefit of that right. Thus,

the taxable person has the obligation to present objective evidence, in the sense that goods and services were actually provided upstream by taxable persons, for the purpose of their own transactions subject to VAT and for which they actually paid that tax. This evidence may include, inter alia, documents in the possession of suppliers or suppliers from whom the taxable person has purchased goods or services for which he has paid VAT. An estimate based on an expert opinion ordered by a national court may possibly supplement that evidence or strengthen its credibility, but it cannot replace it.

The CJEU also stated that "Council Directive 2006/122 / EC of 28 November 2006 on the common system of value added tax, and in particular Article 167, Article 168, Article 178 (a) and Article 179 thereof, and the principles of value added tax neutrality and proportionality must be interpreted as meaning that, in circumstances such as those at issue in the main proceedings, a taxable person who is unable to provide proof of the amount of VAT he has paid upstream by presenting invoices or any other document may not benefit from a right to deduct VAT solely on the basis of an estimate resulting from an expert opinion ordered by a national court '.

d). *In Case C-81/17 Zabrus Siret*[27], this reference for a preliminary ruling concerns the interpretation of the provisions of the VAT Directive and the principles of fiscal neutrality, effectiveness and proportionality. This request was made in a dispute regarding the taxpayer Zabrus Siret SRL which was verified on the VAT line for the period between May 1, 2014 and November 30, 2014, verification completed by drawing up a report on January 26, 2015. Refusal to refund VAT for the amounts of RON 39,637 and RON 26,627 was justified by the tax authorities on the grounds that the amounts claimed relate to operations carried out in a tax period prior to the verification period, which has already been the subject of a previous tax inspection on VAT, completed at January 26, 2015. The tax authorities have indicated that, compared to the applicable national regulations, the principle of uniqueness of the tax inspection precludes the reimbursement of these amounts requested by Zabrus, because regarding the period already verified no irregularity was found regarding VAT contributions and control had not issued any provision of measures to be complied with by Zabrus.

The referring court considers that Zabrus cannot rely on the case-law of the Court on tax neutrality, since it was not opposed to the refusal of the right to deduct VAT on the ground of failure to fulfill a formal requirement of the right to deduct, but on the basis of the principle of the uniqueness of the tax inspection, which results from the principle of legal certainty, the latter being recognized and protected by European Union law and the case law of the Court. By its questions, the national court has asked the CJEU to determine whether Articles 167, 168, 179, 180 and 182 of the VAT Directive, as well as the principles of effectiveness, tax neutrality and proportionality, must be interpreted as precluding national rules such as in the main proceedings, which, by way of derogation from the limitation period of five years provided for by national law for the correction of VAT returns, prevents, in circumstances such as those in the main proceedings, a taxable person from making such a correction in order to exercise its right of deduction for the simple reason that this correction concerns a period which has already been the subject of a tax inspection.

In its reply, the CJEU considered that Articles 167, 168, 179, 180 and 182 of the VAT Directive, as well as the principles of effectiveness, fiscal neutrality and proportionality, must be interpreted as precluding national legislation such as that at issue in the main proceedings. derogation from the five-year limitation period provided for by national law for the correction of VAT returns, prevents, in circumstances such as those in the main proceedings, a taxable person from making such a correction in order to exercise his right to deduct, for the simple reason that this correction concerns a period which has already been the subject of a tax inspection[28].

4. The right of the bona fide taxpayer to benefit from the exercise of the right to deduct VAT, regardless of the behavior of other taxpayers involved in the VAT mechanism and the right of the State to refuse the VAT deduction in cases of fraudulent use of the Common European VAT system. In such cases, it is claimed that the commercial operations registered by the company with an adequate fiscal behavior are fictitious operations and the damage caused to the state budget consists in the VAT related to these operations which was unjustifiably deducted. From a tax perspective, such a situation has been described as an "abusive practice" because the taxpayer commits an abuse directed even against the mechanism that regulates the tax regime of the T.V.A., more precisely the tax mechanism that justifies the right to deduct the T.V.A. for the goods supplied.

The definition of "abusive practice" has been very well established in the practice of the Court of Justice of the European Union in Case C-255/2 Halifax plc, Leeds Permanent Development Services Ltd, County Wide Property Investments Ltd v Commissioners of Customs & Excise, case in which the Court notes: *"The Sixth Directive must be interpreted as prohibiting any right of a taxable person to deduct VAT paid upstream if the transactions from which that right derives constitute an abusive practice. In order to be in the presence of an abusive practice it is necessary, first, that the transactions in question, regardless of the formal application of the conditions laid down in the relevant provisions of the Sixth Directive or of the national law transposing it, have the effect of obtaining a tax advantage which would be contrary to the purpose of those provisions. secondly, it must also be the result of a number of objective factors that the essential purpose of these transactions is is obtaining a tax advantage. Where there is an abusive practice, the transactions involved must be redefined so as to restore the relevant facts in the absence of transactions which constitute an abusive practice"* [29].

We are in the presence of a situation that demands the conciliation of two fundamental rights: the right of the bona fide taxpayer to benefit from the exercise of the right to deduct VAT, regardless of the behavior of other taxpayers involved in the VAT mechanism and the right of the State to refuse VAT deduction. fraudulent use of the common European VAT system. The conciliation of the two fundamental rights was achieved by imposing with necessity the analysis of the "good faith" of the taxpayer, more precisely the determination of whether this taxpayer was involved in that commercial circuit following the fraud of the mechanisms of VAT deduction. with direct intent.

The need for an objective analysis of the taxpayer's "good faith" was ruled by the CJEU judgment of 13 February 2014 in *Case C-18/13 Maks Pen EOOD*[30], received by the Court on 14 January 2013 from the Administrativen sad Sofia-grad from Bulgaria, a case in which the Court was invested with five questions for a preliminary ruling[31]. Relevant in the analysis made here are only the first and third questions. By its first and third questions, the Court was asked whether the relevant rules of Directive 2006/112 / EC preclude the granting of the right to deduct VAT to a taxpayer in possession of compliant invoices if the supplier who appears on those invoices does not have facilities, such as staff or fixed assets with which to provide those services, has not recorded in its accounts the costs related to the services provided, as well as the situation in which the documents certifying the quality of the supplier's representatives who signed a service contract of services, respectively the delivery-receipt report for the provision of the service, were found to be false.

With regard to these questions, the Court referred to its recent *case-law in Bonik, Case C-285/11*. The Court's analysis began by stating that the granting of the right to deduct is a fundamental principle of the European VAT system, which, in principle, cannot be limited. However, the Court has expressly stated that it supports the fight against tax evasion, an objective which is also set by the Directive, which is why the right to deduct can be refused in the exceptional situation where it is proved beyond a reasonable doubt that, objectively, , the

person claiming the right to deduct knew or should have known that he was participating in a specific fraudulent mechanism.

In its ruling in the *Maks Pen EOOD case*, the Court of Justice of the European Union has made the clearest possible line between granting the right to deduct VAT and refusing to recognize the right to deduct VAT as a result of an abusive practice. It is noteworthy that in the interpretation of the C.J.U.E. the expression *„knew or should have known"* is used and, perhaps for this reason, we would be tempted to believe that we may be in a situation where the commission of the crime of tax evasion can be retained and when participating in a commercial circuit in which participates and a company with inappropriate tax behavior is also carried out with indirect intent. In *Case C-255/2 Halifax plc, Leeds Permanent Development Services Ltd, County Wide Property Investments Ltd v Commissioners of Customs & Excise,* C.J.U.E. it expressly states that *„it must also result from a number of objective factors that the essential purpose of these transactions is to obtain a tax advantage"*[32].

5. Conclusions

In this paper we tried to expose the principle of neutrality of value added tax, starting from general issues and customizing, through the application made by the Court of Justice of the European Union. As indicated above, the most important value of the principle of neutrality is the prohibition of discrimination in the tax environment, materialized in the elimination of unjustified tax burdens and disproportionate or inadequate compliance costs for businesses.

Value added tax is considered the most important indirect tax. Its main features, including at the level of the European Union, have also been highlighted in the case law of the Court of Justice of the European Union, as follows: the tax has a scope of general applicability (applies to all commercial transactions), having as object goods or services; the tax is proportional to the price charged by the taxable person in exchange for the goods delivered or services provided; the tax is levied at every stage of the production and distribution process, including at the retail stage, regardless of the number of transactions that have taken place previously; the amounts paid in the previous economic stages are deducted from the tax due by the taxable person, with the result that VAT is applied, at a given stage, only to the value added at that stage and that, finally, the tax is fully borne by the final consumer. turnover tax permitted by European law.

In its case law on VAT, the CJEU has established the following principles:

- the common system of VAT guarantees perfect neutrality as regards the fiscal burden corresponding to all economic activities, regardless of their purpose or results, provided that the said activities are, in principle, themselves subject to VAT (Decision of 3 July 2019, *The Chancellor, Masters and Scholars of the University of Cambridge, C 316/18)*;

- the benefit of the right to deduct may not be refused to a taxable person unless it is established, in the light of objective factors, that the taxable person to whom the goods were supplied or the services provided as a basis for justifying the deduction is , knew or should have known that, by purchasing these goods or services, it participates in an operation involved in a VAT fraud committed by the supplier or another operator who intervened upstream or downstream in the supply chain. or these benefits (Judgment of 16 October 2019, *Glencore Agriculture Hungary, C 189/18)*;

- it is for the competent national tax authorities to establish, in the light of objective factors and without requiring taxpayers to verify that it is not their responsibility, that they knew or should have known that the transaction relied on to justify the right to deduct was involved in a VAT fraud ul. The competent national tax administration may not, in general, require the taxpayer, on the one hand, to verify whether the issuer of the invoice for the goods and services in respect of which the right is claimed had the goods in question and was able to deliver them. on the declaration and payment of VAT in order to ensure that there are no

irregularities or fraud at the level of upstream operators or, on the other hand, to have documents in this regard (Judgment of 22 October 2015, *case of PPUH Stehcemp, C 277/14*);

- since the presentation of additional documents is not provided for in Article 178 (a) of the VAT Directive and may disproportionately affect the exercise of the right to deduct, and therefore the principle of neutrality, the competent national tax administration cannot generally request such presentation.

The CJEU has therefore concluded that the principles governing the application by Member States of the common system of VAT, in particular those of fiscal neutrality and legal certainty, must be interpreted as precluding the taxable person from being denied the right to deduct tax. VAT if it is not able to provide, in addition to the invoice, other elements to prove the reality of the economic operations performed. Moreover, the CJEU has established that these principles apply even when we are in the presence of simple unsubstantiated suspicions of the national tax administration regarding the effective conduct of the economic operations that formed the basis for issuing a tax invoice.

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[2] The European Community, established in Rome as the European Economic Community on 25 March 1957 by the six Member States (Belgium, Germany, France, Italy, Luxembourg, the Netherlands) of the European Coal and Steel Community (CECO).

[3] Published in the Official Gazette of Romania, Part I, no. 200 of August 17, 1992.

[4] Published in the Official Gazette of Romania, Part I, no. 338 of 30 December 1992,

[5] Directive 67/227 / EEC, published in OJ no. 71 of April 11, 1967.

[6] C.F. Costaș, *Drept fiscal*, ed. a III-a, revăzută și adăugită, Ed. Universul Juridic, București 2021, p. 296; R. Bufan, J. Malherbe, M. Buliga, N. Svidchi, *Tratat de drept fiscal, vol. II, Dreptul fiscal al Uniunii Europene*, Ed. Hamangiu, București, 2018, p. 97 și urm.

[7] Published in the Official Gazette of Romania, Part I, no. 688 of September 10, 2015, in force since January 1, 2016.

[8] Value added tax is passed on from one stage of the distribution process to another to reach the final consumer. The latter consumer bears VAT as an integral part of the selling price of the product, service or work performed. As such, in essence, VAT is a tax that affects consumption, being borne by the one who purchases and uses for himself the good or service in the price of which the tax is also incorporated. For details see: C.F. Costas, op. cit., pp. 287.

[9] For example, the introduction of VAT in Singapore in 1994 allowed for a major reduction in direct taxes - at that time the most important source of revenue for the state budget. For details see: M. Enache, *Bugetele statelor Uniunii Europene*, Ed. Universul Juridic, București, 2016; I.M. Costea, *Fiscalitate europeană. Note de curs*, Ed. Hamangiu, București, 2016.

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[15] For a similar conclusion, see also the European Court of Justice, Judgment of 3 May 2001, Case C-481/98, Commission v. France, published in Collection 2001, p. I-3369, para. 21-22.

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[17] European Court of Justice, Case C-349/96 Case C-349/96 [1999] ECR I-973.

[18] European Court of Justice, Case C-155/01 Cookies World [2003] ECR I-8785. The taxation of a supply of services in a Member State, after VAT has been levied in the State of the service provider, gives rise to double taxation contrary to the principle of fiscal neutrality. For details see: A. Duca, E. Duca, *Evitarea dublei impuneri,* Ed. Universul Juridic, București, 2015, p. 45 și urm.; N. Măndoiu, *Multinaționale, rambursarea TVA și abuzul de drept. Tranzacții artificiale și Doctrine ale reglementărilor economice*, Ed. Confisc, București, 2016.

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[21] In this regard, Case 277/14, PPUH Stehcemp.

[22] I.N. Văduva, *Justificarea deducerii TVA și a diminuării bazei impozabile la impozitul pe profit,* în RFF nr. 10/2007, p. 3-5.

[23] CJEU Decision in Case 642/11 Stroy Trans.

[24] CJEU Decision in Case C-277/14 PPUH.

[25] Regarding the practice of the Romanian tax authorities, this has been and continues to be, contrary to this solution pronounced by the CJEU, that of making viable companies liable for the inappropriate tax behavior of its trading partners.

[26] Decision of the CJEU in Case C-664/16 L.H.V.

[27] CJEU Decision in Case 81/17 Zabrus Siret SRL.

[28] For more details, see Decision no. 27/2016 of the High Court of Cassation and Justice - the panel for resolving legal issues, published in the Official Gazette of Romania, Part I, no. 949 of November 24, 2016.

[29] A.M. Truichici, L. Neagu, Drept fiscal – Jurisprudenta Curtii de Justitie a Uniunii Europene, Ed. Universul Juridic, București, 2017, p.69 și urm.

[30] General repertoire of CJEU case law 2014, available on EUR-Lex.

[31] General repertoire of CJEU case law 2014, available on EUR-Lex.

[32] The Court did nothing but reconfirm its settled case-law in this area, as outlined in Halifax (Case C-255/02), Axel Kittel (Case C-439/04) and Recolta Recycling (C- 440/04). Thus, the Court expressly states that the individual must benefit from the presumption of good faith, leaving to the tax authorities the burden of proving that they, with direct intent, took part in a fraudulent mechanism, based on the administration of objective evidence.

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