

EN
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Answer given by Mr Gentiloni
on behalf of the European Commission
(27.9.2022)

In general, Member States must ensure that the EU Value Added Tax (VAT) legislation, as interpreted by the Court of Justice of the EU, is correctly implemented, applied and enforced. Insofar as Member States would systematically fail to apply this or any other VAT provision correctly, the Commission may initiate an infringement procedure against a Member State concerned.

As regards the particular situation raised by the Honourable Member, following the decision of the Court of Justice of the EU (CJEU) in the ‘L.Č’ IK case (C-288/16) of 29 June 2017¹, the VAT Committee, by a large majority, agreed guidelines² on the interpretation of Article 146(1)(e) of Council Directive 2006/112/EC (the VAT Directive).

Where any subsequent case law is issued, such as Cartrans Spedition SRL case C-495/17 of 8 November 2018³, which is oriented in the first place towards relevant means of proof in relation to the export, which may potentially impact the interpretation of the above mentioned provision of the VAT Directive, Member States have the possibility to bring the issue to the VAT Committee. This Committee is chaired by the Commission and Member States might agree to issue guidelines on the interpretation of VAT rules, where necessary.

¹ <https://curia.europa.eu/juris/document/document.jsf?text=&docid=192246&pageIndex=0&doclang=en&mode=lst&dir=&occ=first&part=1&cid=699260>

² https://taxation-customs.ec.europa.eu/system/files/2022-04/guidelines-vat-committee-meetings_en.pdf

³ <https://curia.europa.eu/juris/liste.jsf?num=C-495/17>