



C/2024/1376

19.2.2024

Judgment of the Court (Third Chamber) of 21 December 2023 (request for a preliminary ruling from the tribunal d'arrondissement de Luxembourg — Luxembourg) — TP v Administration de l'enregistrement, des domaines et de la TVA

(Case C-288/22, ⁽¹⁾ Administration de l'enregistrement, des domaines et de la TVA (VAT — Member of a board of directors))

(Reference for a preliminary ruling — Taxation — Common system of value added tax (VAT) — Directive 2006/112/EC — Article 9 — Taxable persons — Economic activity carried out independently — Concept of 'economic activity' — Concept of 'independent exercise of the activity' — Activity as a member of the board of directors of a public limited company)

(C/2024/1376)

Language of the case: French

Referring court

Tribunal d'arrondissement de Luxembourg

Parties to the main proceedings

Applicant: TP

Defendant: Administration de l'enregistrement, des domaines et de la TVA

Operative part of the judgment

1. Article 9(1) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax

must be interpreted as meaning that the member of the board of directors of a public limited company under Luxembourg law carries out an economic activity, within the meaning of that provision, where he or she supplies services to that company for consideration provided that that activity is effected on a continuing basis and for a remuneration for which the procedures for fixing that amount are foreseeable.

2. The first subparagraph of Article 9(1) of Directive 2006/112

must be interpreted as meaning that the activity of a member of the board of directors of a public limited company under Luxembourg law is not carried out independently, within the meaning of that provision, where — despite the fact that that member is free to arrange how he or she performs their work, receives the emoluments making up his or her income, acts in his or her own name and is not subject to an employer-employee relationship — he or she does not act on their own behalf or under their own responsibility and does not bear the economic risk linked to their activity.

⁽¹⁾ OJ C 326, 29.8.2022.