December Newsletter

EU VAT Kick-Off 2026 #5

3 important judgments from the CJEU: civil law partnerships, triangulation simplification and intra-Community supplies

In this newsletter, we summarize three recent judgments (Nov – Dec 2025) of the Court of Justice of the European Union that clarify fundamental VAT concepts relevant for cross-border structures, supply chains and evidentiary standards.

These judgments will be discussed, among other things, during our seminar on 16 January.

Civil law partnership does not automatically become the VAT taxable person

(C-796/23, Česká síť, Judgment of the Court of 11 December 2024)

Four Czech legal entities cooperated closely in providing services to their respective clients. Although each company concluded contracts in its own name and provided services independently, there were strong organizational links between them, including centralized management by one individual. Individually, none of the companies exceeded the VAT registration threshold, but their aggregated turnover did.

The Czech tax authorities considered that a civil law partnership existed between the companies under Czech civil law. As Czech VAT legislation designated one partner as responsible for VAT settlements for the entire partnership, the authorities sought to impose VAT liability on that designated partner for services allegedly supplied by the partnership.

The Court was asked whether, in circumstances where partners act independently towards clients and contract in their own name, one designated partner may nevertheless be obliged to account for VAT on services allegedly supplied by a civil law partnership.

The Court held that this was not the case. Its reasoning was based on the following key points:

First, it must be determined who acts independently in relations with third parties, in their own name and on their own account, and who bears the economic risk associated with the services concerned. Those elements are decisive for identifying the taxable person for VAT purposes.

Second, in the circumstances of the case, the individual companies themselves had to be regarded as taxable persons in respect of the services provided. Each company supplied its own services, recorded its own income and acted in its own name vis-à-vis customers.

Third, it was particularly important that, in relations with third parties, the companies identified themselves — and not the civil law partnership — as the contractual counterpart. This aspect is crucial for legal certainty, including for the purposes of exercising the right to deduct input VAT.

Finally, where the companies did not operate in accordance with the legal requirements governing representation of a civil law partnership, it cannot be considered that such a partnership was actually operating for VAT purposes.

This judgment confirms that close cooperation or organizational integration alone does not justify treating a civil law partnership as the VAT taxpayer if the objective characteristics of the supplies point to independent activity by each participant.

Triangulation simplification may apply even in four-party chains — but fraud blocks Article 41 correction

(T-646/24, MS KLJUČAROVCI, Judgment of the Court of 3 December 2025)

This case concerned a complex chain transaction involving four entities: a German supplier sold goods to a Slovenian company, which sold them to a Danish company, which in turn resold them to another Danish company. The goods were transported directly from Germany to Denmark.

The Slovenian company applied the triangular transaction simplification, correctly issuing an invoice with its Slovenian VAT number and indicating that VAT was to be settled by the purchaser. However, the Danish customer failed to account for VAT, and the transaction was found to be part of VAT fraud.

The Slovenian tax authorities denied the application of the simplification and assessed VAT in Slovenia under Article 41(1) of the VAT Directive, arguing that:
(1) the simplification could not apply because the chain involved four

entities; and (2) the Slovenian company could not correct VAT under Article 41(2) because it knew it was participating in VAT fraud.

The Court addressed three key issues.

First, the Court held that the simplified triangulation scheme may apply even in four-party chains, provided that the goods are transported directly “to the person for whom the subsequent supply is made” within the meaning of Article 141(c) of the VAT Directive. The concept of supply of goods refers to the transfer of the right to dispose of goods as owner and does not require physical possession or physical transport to the immediate purchaser. The objective of the simplification — taxing the final purchaser and avoiding registration of the intermediary — does not depend on physical delivery to the intermediate buyer.

Second, the fact that the intermediary knows that the goods are transported directly to a fourth entity does not, in itself, preclude the application of the triangulation simplification. VAT treatment must be based on the objective characteristics of the transaction, not on the subjective knowledge of the parties.

Third, the Court confirmed that where Article 41 applies because goods were acquired under a given VAT identification number, the possibility to correct VAT under Article 41(2) is excluded if the taxable person knew or should have known that it was participating in VAT fraud. EU law cannot be relied upon fraudulently, and refusal to grant VAT benefits in such circumstances is compatible with the principles of neutrality, proportionality and legal certainty.

This judgment reinforces both the functional interpretation of the triangulation simplification and the strict fraud-based limitations on corrective VAT rights.

Evidence of intra-Community transport is not limited to Article 45a documents

(C-639/24, FLO VENEER, Judgment of the Court of 13 November 2025)

A Croatian company supplied logs to a customer in Slovenia and claimed the VAT exemption for intra-Community supplies. As evidence of transport, it provided buyer statements of receipt, shipping certificates and CMR consignment notes.

The Croatian tax authorities denied the exemption on the grounds that the conditions set out in Article 45a(1)(b) of Implementing Regulation 282/2011 were not met and that the presumption of transport to another Member State therefore did not apply.

The Court rejected this restrictive approach.

First, the Court recalled that Article 138 of the VAT Directive lays down the substantive conditions for exemption of intra-Community supplies: delivery of goods to another Member State and the purchaser being registered for intra-Community transactions in that other Member State.

Second, Article 45a of the Implementing Regulation merely establishes a rebuttable presumption of transport where specific documents are held. It does not contain an exhaustive list of admissible evidence. Tax authorities are therefore required to assess all information capable of substantiating that the goods were transported to another Member State.

Third, this interpretation is consistent with settled case law under Article 138, according to which VAT exemptions cannot be refused solely due to non-compliance with formal requirements, provided that the substantive conditions are met.

As the Court emphasized:
“The tax authorities must take proper account of all the information in their possession for the purposes of examining whether those documents may,

where necessary, substantiate the likelihood of the actual intra-Community supply."

This judgment significantly strengthens the evidentiary position of taxpayers and confirms that Article 45a is a simplification tool — not a closed evidentiary regime.