

JUDGMENT

# T-569/25

## Good faith cannot be pushed into a separate discretionary procedure

*X-GmbH v Finanzamt Y*

Article 314 VAT Directive | Principle of effectiveness

General Court, Second Chamber (five Judges)  
14 October 2026



# Executive summary

Five points from the judgment

## FACTS

Invoices stated that the margin scheme applied; the tax authority later found the suppliers had used it incorrectly for new watches.

## ISSUE

Could the reseller's good faith be considered only in a separate German equity procedure?

## QUESTION

Does Article 314, read with effectiveness, preclude that procedural separation?

## DECISION

**Yes. EU law precludes the practice described by the referring court.**

## WHY

Parallel proceedings risk duplicated costs, prolonged protection and weaker evidential treatment.

# Facts and procedural background

The dispute arose from supplier invoices referring to the German margin scheme



**2013–2014**

X-GmbH applied the margin scheme to selected watch resales.

**Audit**

Suppliers were found to have applied the scheme incorrectly because the watches were new.

**19 Feb 2020**

Finanzamt Y reassessed VAT under the normal regime on total consideration.

**National litigation**

The Finanzgericht held that good faith belonged only in a separate equity procedure.

# Legal framework

Article 314 defines access to the margin scheme; effectiveness governs national procedure

## EU VAT law

- Article 313(1)** Special scheme for taxable dealers supplying second-hand goods, art, collectors' items or antiques.
- Article 314** Eligible upstream supplier categories determine access to the scheme.
- Article 315** Taxable amount is the dealer's profit margin, net of VAT.

## German procedure

- §25a UStG** Implements the margin scheme in German VAT law.
- §163 AO** Permits a lower assessment on equitable grounds.
- §227 AO** Permits full or partial remission where collection would be inequitable.

**EU procedural autonomy remains subject to equivalence and effectiveness.**

## Question referred

Can good faith be confined to a separate equity procedure?

**Does Article 314 of the VAT Directive, read in the light of the principle of effectiveness, preclude a national practice that considers the reseller's good faith only outside the tax assessment procedure, in a separate equitable procedure?**

The Court treated the reference as admissible: the answer was relevant to whether the Finanzgericht had correctly excluded good faith from the assessment procedure.

# Court's decision

Article 314 and effectiveness preclude the national practice

## PRECLUDES

**Good faith cannot be excluded from the tax assessment procedure and reserved exclusively for a separate discretionary equity decision.**

1

### Assessment procedure

Authorities establish facts of their own motion and must consider circumstances favourable to the taxpayer.

2

### Good-faith test

The authorities must prove lack of good faith or failure to take all reasonable measures.

3

### No automatic entitlement

The ruling does not validate the margin scheme where fraud, abuse or lack of reasonable care is established.

# Why the separate procedure failed

The procedural split could make Article 314 rights excessively difficult to exercise



## Duplicated costs

Two objections, two court actions and potentially two appeals could duplicate professional and court costs.

## Excessive delay

Good faith might not be examined until the tax assessment litigation ends, potentially delaying protection by years.

## Evidential disadvantage

The equity procedure generally examines evidence submitted by the taxpayer, unlike ex officio fact-finding in assessment.

**Combined effect: access to the margin-scheme right may become excessively difficult.**

# VAT implications

Practical control points for taxable dealers and tax administrations

## Invoice reliance is relevant

A supplier invoice referring to the margin scheme supports the dealer's position, subject to fraud and reasonable-care tests.

## Good faith belongs in the core decision

Tax administrations should not defer the decisive Article 314 analysis exclusively to discretionary relief.

## Reasonable measures remain essential

Dealers should retain evidence of supplier checks, product status and transaction context proportionate to identified risks.

## Procedure can determine substance

Costs, delay and burden-of-proof design can breach effectiveness even where a separate remedy formally exists.

Key precedent chain: Litdana • Surgicare • Gryczara • Caixabank • Schmeink & Cofreth and Strobel