

Appendix 1 to VEG N° 053 Summary of the appearance of commonly-used evidence to proof the transport or dispatch to another Member State

National practices for

AUSTRIA

Case reference	Court Level (L= lower, S= supreme)	Does the case involve (alleged) fraud?	Commonly accepted evidence by the courts and tribunals								
			Invoice	VAT ID	International consignment notes (CMR)	Certificate of receipt of the goods	Contractual documents	Payment	Evidence	Registration in the bookkeeping	Other elements (please specify)
VwGH 27.11.2014, 2012/15/0192 (Supreme Administrative Court)	S	No	X	X		X				X	The tax exemption was denied because the certificate of the receipt of the goods was provided several years after the supply took place by sending the recipient a prepared form which he only had to sign and no other evidence (e.g. a copy of the ID of the recipient at the time of the supply) was available.
BFG 16.4.2014, RV/7101624/2010 (Financial Court)	L	No	X	X	X					X	The tax exemption was granted although the CMRs were not signed by the recipient (at field 24).
BFG 25.3.2014, RV/7100321/2010 (Financial Court)	L	No	X			X				X	The certificate of receipt of the goods was not provided at the time of the supply but subsequently in the course of a tax audit. Moreover, a late declaration in the recapitulative statement does

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											not harm the tax exemption.
VwGH 19.12.2013, 2012/15/0006 (Supreme Administrative Court)	S	Yes	X			X		X		X	The tax exemption was granted although the certificate of transportation to another member state was not issued by the recipient of the goods but by a third party acting on behalf of the recipient. Furthermore, the respective cars were not registered on behalf of the recipients in another member state but on behalf of other persons.
VwGH 20.12.2012, 2009/15/0146 (Supreme Administrative Court)	S	No	X	X		X				X	The certificate of receipt of the goods was not provided at the time of the supply but subsequently in the course of a tax audit. Furthermore, evidence of witnesses and a certificate of the registration of the respective car in another member state were provided.
UFS 6.4.2011, RV/3685-W/08 (Financial Court)	L	Yes	X	X		X	X			X	Moreover, a handover certificate signed by the recipient and a certificate of the registration of the respective car in another member state were provided.
VwGH 2.9.2009, 2005/15/0031	S	No	X	X	X					X	The tax exemption was granted although the registration in the

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(Supreme Administrative Court)											bookkeeping and the VAT ID numbers of the recipients were not provided contemporary but subsequently in the course of a tax audit.
UFS 4.6.2009, RV/0305-G/08 (Financial Court)	L	No	X	X		X				X	The tax exemption was granted although the certificate of receipt of the goods was provided not at the time of the supply but subsequently in the course of a tax audit.
Hit time			8	6	2	6	1	1	0	8	

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BELGIUM

Case reference	Court Level (L= lower, S= supreme)	Does the case involve (alleged) fraud?	Commonly accepted evidence by the courts and tribunals									
			Invoice	VAT ID	International consignment notes (CMR)	Certificate of receipt of the goods	Contractual documents	Payment	Evidence	Registration in the bookkeeping	Other elements (please specify)	
2012/AR/538	L (Court of Appeal Ghent) – positive judgement (proof IC supply accepted)	No	X	-	-	-	-	-	-	X	X	Purchase orders, VAT was paid in other MS
12/895/A	L (Court of First Instance, Hasselt) – negative judgment (proof IC supply not accepted)	Yes	X	X	X	-	-	-	-	-	-	VAT ID did not belong to end customer, goods were delivered on different address than mentioned on invoice
11/1122/A & 12/501/A	L (Court of First Instance, Antwerp) – negative judgement (proof IC supply not accepted)	Yes	X	-	X	-	X	X	X	-	-	No proof of transport on behalf of the supplier or buyer, goods were transported to another MS than the MS of the buyer mentioned on the invoice
12/8/A	L (Court of First Instance,	Yes	X	X	X	-	-	X	-	-	-	reference to case law ECJ

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	Hasselt) – positive judgement (proof IC supply accepted)										
12/163/A	L (Court of First Instance, Louvain) – negative judgement (proof IC supply not accepted)	Yes	X	X	X	-	-	X	-	-	certificate of competent authority that the car has been registered in Romania, BUT cash payments and irregular documents
F.10.0063.N	S (Court of Cassation) – negative judgement (proof IC supply not accepted)	No	X	-	-	-	X	X	X	-	Purchase orders, certificate of registration car in another MS, statement of buyer regarding the transport, BUT cash payments
2006/AR/3499	L (Court of Appeal, Brussels) – negative judgement (proof IC supply not accepted)	No	X	-	X	-	-	X	-	-	Purchase orders, invoices regarding resale, BUT irregular CMR's and cash payments
Hit time			7	3	5	0	2	5	3	1	

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ITALY

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			Invoice	VAT ID	International consignment notes (CMR)	Certificate of receipt of the goods	Contractual documents	Payment	Evidence	Registration in the bookkeeping	Other elements (further requirements whose absence overruled the accepted evidences)
Cass.Civ. 13457/2012	S	no	x	x							Evidence may be given through contractual documents and the regularity of payments.
Cass.Civ. 15741/2012	S	yes	x	x							anomalous purchase relations entertained by the taxpayer and the MT with particular reference to transfers of goods and payments
Cass.Civ. 1670/2013	S	yes		x	x			x	Registration Chamber of commerce		
Cass.Civ. 12964/2013	S	yes	x	x							If it is proved and accepted that such export has not occurred, the vendor has the burden to prove that it was misled despite having taken all the diligence

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Cass.Civ. 20980/2013	S	yes	x	x	x		x	x	x		
Cass.Civ. 3105/2014	S	yes	x	x			x	x		x	Good faith- diligence
Cass.Civ. 4636/2014	S	yes/no	x	x	x	x			Favourable criminal proceeding		criminal judgment in favour of the taxpayer does not represent itself the proof of good faith
Cass.Civ. 13991/2014	S	yes	x	x	x						proof of the transportation of the goods outside the territory
Cass.Civ. 178/2015	S	no	x	x				x		x	
Cass.Civ. 3395/2015	S	no	x	x						x	
Cass.Civ. 8643/2015	S	yes	x	x	x		x		x		lack of correspondence between the place of delivery and the dates of transport, the declaration of the carrier
Cass.Civ. 12017/2015	S	yes	x	x			x	x		x	
Cass.Civ. 14863/2015	S	yes	x	x				x		x	it is not relevant that the goods have been delivered and sold gain, and the invoice with VAT included paid, because these are

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											circumstances fully compatible with tax fraud realised with supplies subjectively non existent
Cass.Civ. 16936/2015	S	Yes	x	x						x	lack of human and technical resources (the structure) of the subject interposed
Cass.Civ. 15987/2015	S	no	x	x				x		x	No goods physically stocked into fiscal warehouses
Cass.Civ. 15630/2015	S	no	x	x		x					previous ownership of the goods (margin scheme)
Cass.Civ. 9746/2015	S	yes	x	x		x				x	delivery of the goods to the carrier is not a proof enough strong to confirm the good faith of the taxable person that have to prove the effectiveness of the exportation in other ways
Hit time			16	17	5	3	4	7	4	8	

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SLOVENIA

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			Invoice	VAT ID	International consignment notes (CMR)	Certificate of receipt of the goods	Contractual documents	Payment	Evidence	Registration in the bookkeeping	Other elements (please specify)	
[U I 69/2015]	L	No.	X		X					X	X	In case recipient transports: his written statement of the transport is also suitable proof of supply. However it must contain all the prescribed data from the Rules on the VAT Act.
[U I 1227/2013]	L	No.	X		X					X		In case recipient transports: his written statement of the transport is also suitable proof of supply. However it must contain all the prescribed data from the Rules on the VAT Act.
[U I 781/2013]	L	Yes.	X		X				X	X		In case recipient transports: his written statement of the transport is also suitable proof of supply. However it must contain all the prescribed data from the Rules on the VAT Act.
[U I 1417/2010]	L	Yes.	X	X	X					X		No business relationship and communication with the customer can be proven, the

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											purchaser did not exist under the name stated on the invoice
[U I 1865/2009]	L	Yes.	X		X				X	X	<p>In case recipient transports: his written statement of the transport is also suitable proof of supply. However it must contain all the prescribed data from the Rules on the VAT Act.</p> <p>Any other statement or document by which a supply to EU could be proven.</p> <p>Evidence on business relationship with a customer.</p>
Hit time			5	1	5	-	-	1	5	2	

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SWEDEN

Case reference	Court Level (L= lower, S= supreme)	Does the case involve (alleged) fraud?	Commonly accepted evidence by the courts and tribunals									
			Invoice	VAT ID	International consignment notes (CMR)	Certificate of receipt of the goods	Contractual documents	Payment	Evidence	Registration in the bookkeeping	Other elements (please specify)	
1501-1507-11	L (Administrative court of appeal Gothenburg) Both positive and negative judgment (proof of IC supply partly accepted)	No	X	X	X				X			Purchase orders E-mails between the seller and another company proving that that company was in fact the buyer, and not the company receiving the invoice.
6967-09 6969-09	L (Administrative court of appeal Gothenburg) Both positive and negative judgment (proof of IC supply accepted)	No	X									Certificate from a third party certifying that a cross border transport had been made.
5237-07	L (Administrative court of appeal Gothenburg) Negative judgment (proof of IC supply not	No		X								Certificate from buyer certifying that a cross border transport had been made.

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	accepted)										
2355-2357-08	L (Administrative court of appeal Gothenburg) Both positive and negative judgment (proof of IC supply party accepted)	No	X	X							Transport documents showing how and when the goods would be transported out of the country. Certification from a third party certifying that the goods have leaved the country.
Hit time			3	3	1	-	-	1	-	-	