

ECJ Decides on Correct Period to File VAT Refund for Non-Resident Taxable Persons: *Gencoal* (Case C-669/21) (VAT)

16 January 2023

Report from Fernanda Santos Moura, VAT Associate, IBFD

On 14 November 2022, the Court of Justice of the European Union (ECJ) gave its decision in the case of *Gencoal S.A. v. Conceito Norte – Consultadoria de Gestão, Lda., BT* (Case C-669/21) on the correct period to file an application for a VAT refund for taxable persons not established in the territory of application of the tax but established in another Member State.

The ECJ decided not to analyse the case because the admissibility criteria for it was not fulfilled, as the referring court did not provide enough information concerning the facts and reasons why the ECJ position is necessary for the dispute to be solved.

Therefore, the Tenth Chamber of the ECJ ruled:

"The preliminary ruling request submitted by *Tribunal Judicial da Comarca do Porto – Juízo Central Cível da Póvoa de Varzim – Juiz 5* (Portugal), by decision of 21 October 2021, is manifestly inadmissible".

(Unofficial translation)

A more substantial report containing details of the ECJ's decision will be published subsequently in the ECJ Case Law collection.