

ECJ Preliminary Ruling Request: *Volvo Group Belgium* (Case C-436/23) – Hof van Beroep Gent Submits Referral on Profit Distribution Tax for Non-Resident Companies

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On 11 December 2023, a preliminary ruling request lodged on 13 July 2023 was published in the Official Journal of the European Union. In the referral, the Belgian Hof van Beroep Gent requested the ECJ to answer the following question:

1. Must article 49 of the [TFEU](#) be interpreted as precluding a national scheme, such as that being challenged before the Court (specifically that which was annulled by the Constitutional Court but whose effects were maintained, albeit with an infringement of the freedom of establishment as a result of which the maintained national scheme must be disapplied in respect of the profits distributed by companies established in another Member State with a Belgian permanent establishment, and whereby:
 - a tax is payable on the distribution of profits that were not included in the final taxable result of a resident company, in respect of which a company established in another Member State has such an influence on the resident company's management that it can determine its activities; and
 - whereas that tax is not payable on the profits concerned if that company, established in another Member State, carries on its activities in Belgium through a permanent establishment/branch?