

# ECJ Advocate General Opines on Unjustified Extension of Tax Procedure and Implications for Right to Deduct VAT: Napfény-Toll Kft. (Case C-615/21) (VAT)

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On 2 February 2023, Advocate General Athanasios Rantos of the Court of Justice of the European Union (ECJ) gave his opinion in the case of *Napfény-Toll Kft. v. Nemzeti Adó – és Vámhivatal Fellebbviteli Igazgatósága* ([C-615/21](#)) on whether an unjustified extension without a limitation period of a tax procedure intended to examine whether the conditions to deduct VAT were fulfilled, renders excessively difficult to exercise that right of deduction.

The case was analysed in the light of the principles of effectiveness and legal certainty of EU law, and the Advocate General proposed that the ECJ answer the questions referred to as follows:

"The principles of legal certainty and effectiveness of EU law must be interpreted as meaning that they do not preclude the legislation of a Member State according to which, in the field of value added tax, the limitation period for the tax authority's right of assessment of the tax is suspended throughout the course of the judicial review in question, even when this appeal is brought against consecutive decisions issued by a tax authority and relating to the same tax.

However, it is up to the national competent court, taking into account all the circumstances of the case in question, such as the complexity of the procedure, to assess whether the repetition of the tax procedure and the judicial inspections in question were mainly due to deficiencies in the tax administration or whether this delay can be attributed to the national courts and to draw the necessary conclusions therefrom, including on the existence of a possible right to compensation in favour of the taxable person concerned."

(Unofficial translation)

A more substantial report containing details of the Advocate General's reasoning will be published in due course.

