

ECJ Decides on Supply of New Buildings and Application of First-Time Use Criterion in Conversion of Buildings: *État belge and Promo 54* (Case C-239/22) (VAT)

9 March 2023

Report from IBFD Knowledge Centre

On 9 March 2023, the Court of Justice of the European Union (ECJ) gave its decision in *État belge and Promo 54 v Promo 54 and État belge* ([Case C-239/22](#)) based on a number of grounds.

"On those grounds, the Court (Eighth Chamber) hereby rules:

Article 135(1)(j) of [Council Directive 2006/112/EC](#) of 28 November 2006 on the common system of value added tax, read in conjunction with Article 12(1) and (2) thereof,

must be interpreted as meaning that the exemption provided for by that first provision for the supply of a building or a part of a building, and of the land on which the building stands, other than those which are supplied before their first occupation, also applies to the supply of a building which was first occupied before its conversion, even if the Member State concerned has not laid down, in national law, the detailed rules for applying the criterion of first occupation to conversions of buildings, as the second of those provisions authorised it to do."

For a previous TNS regarding the case, see [Belgium-1, News 4 July 2022](#).

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