

ECJ Decides on Possibility of Denying Refund of VAT Levied in Breach of EU Law: *Osteopathie Van Hauwermeiren* (Case C-355/22) (VAT)

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Report from IBFD Knowledge Centre

On 5 October 2023, the Court of Justice of the European Union (ECJ) gave its decision in *BV Osteopathie Van Hauwermeiren v. Belgische Staat* ([Case C-355/22](#)) based on a number of grounds.

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

A national court may not make use of a national provision empowering it to maintain certain effects of a provision of national law which it has found to be incompatible with Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, on the basis of an alleged impossibility of refunding the value added tax (VAT) wrongly levied to the customers of the services provided by a taxable person, in particular by reason of the large number of persons concerned or where those persons do not have an accounting system enabling them to identify those services and their value."

For a previous TNS regarding the case, see [Belgium-1, News 5 September 2022](#).

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