

# ECJ Decides on Compensation for VAT Not Refunded Due To National Measures in Breach of EU Law: *SOLE-MiZo* (Case C-426/22) (VAT)

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The Court of Justice of the European Union (ECJ) gave its decision in the case of *SOLE-MiZo Zrt. v. Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága* (Case C-426/22) on the interpretation of the principles of tax effectiveness and neutrality, in conjunction with article 183 of the [VAT Directive \(2006/112\)](#), as to whether they prohibit a Member State, such as Hungary, from calculating interest on the excess of deductible VAT withheld by the Member State in breach of EU law, applying a rate that does not compensate for the currency depreciation caused by the passage of time. The ECJ held that this practice is liable to deprive the taxable person of an adequate compensation for the loss caused by the unavailability of the amounts in question and is not capable of offsetting the economic burden of the amounts of tax unduly withheld.

In this sense, on 20 June 2023, the Sixth Chamber of the ECJ ruled along these lines:

"Article 183 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax [[VAT Directive \(2006/112\)](#)] and the principles of effectiveness and fiscal neutrality

must be interpreted as meaning that:

they preclude the practice of a Member State of charging interest on excess deductible value added tax (VAT) withheld by that Member State beyond a reasonable period in breach of Union law by applying a rate equal to the base rate of the national central bank plus two percentage points, where the interest on that excess VAT accrues during a period running from the due date of the return in respect of a given month to the due date of the return in respect of the following month, without where the interest on that excess VAT accrues during a period running from the due date of the return in respect of a given month to the due date of the return in respect of the following month, without application of any interest intended to compensate for monetary depreciation due to the passage of time occurring after that period and up to a date which, on the one hand, after delivery of the judgment in which the Court of Justice has found that there has been an infringement of Union law and, on the other hand, before the actual payment of interest on the excess VAT, in so far as that practice is liable to deprive the taxable person of adequate compensation for the loss caused by the unavailability of the sums concerned and is not capable of offsetting the economic burden of the amounts of tax unduly withheld".

(Unofficial translation by IBFD).

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

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