

# ECJ Decides on Late Payment Interest on Excess VAT to Be Reimbursed: *ZSE Elektrárne* (Case C-151/23) (VAT)

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The Court of Justice of the European Union (ECJ) gave its decision in the case of *ZSE Elektrárne sro v. Finančné riaditeľstvo Slovenskej republiky* (Case C-151/23) on the interpretation of article 183 of the [VAT Directive \(2006/112\)](#) as to whether, in the event of a tax audit, national legislation may fix the date on which late payment interest on the excess VAT to be reimbursed is due later than the date on which that reimbursement would have taken place if such an audit had not occurred.

The ECJ held that a taxable person has the right to receive late payment interest from the national tax authorities on any excess VAT that has not been reimbursed within a reasonable period, but that the details of how this interest is applied are subject to the procedural autonomy of the Member States.

In this sense, on 5 October 2023, the Eighth Chamber of the ECJ ruled along these lines:

"The taxable person is entitled to interest on account of late payment to be paid to him by the national tax authorities in respect of any excess value added tax which those authorities have failed to reimburse within a reasonable period. The terms of application of these interests fall within the procedural autonomy of the Member States, framed by the principles of equivalence and effectiveness, provided that the national rules, in particular as regards the starting point for the calculation of any interest due, do not have the effect of depriving the taxable person of adequate compensation for the loss caused by the late reimbursement of said excess".

(Unofficial translation)

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