



Reports of Cases

Order of the Court (Eighth Chamber) of 5 October 2023 – ZSE Elektrárne

(Case C-151/23)

(Reference for a preliminary ruling – Article 99 of the Rules of Procedure of the Court of Justice – Common system of value added tax (VAT) – Directive 2006/112/EC – Article 183 – Excess VAT – Late refund – Taxable person’s entitlement to interest for late payment – Methods of application – Procedural autonomy of the Member States – Principles of effectiveness and fiscal neutrality – National legislation setting the starting point for the calculation of interest for late payment at a date later than that on which the refund would have had to be made had a tax investigation not been carried out)

Harmonisation of fiscal legislation – Common system of value added tax – Deduction of input tax – Rules governing exercise of the right of deduction – Refund of excess – Obligation to pay interest in the event of failure to refund within a reasonable period – Methods for applying interest falling within the procedural autonomy of the Member States – Respect for the principles of equivalence and effectiveness – Determination of the starting point for the calculation of interest to ensure adequate compensation for the loss caused

(Council Directive 2006/112, Art. 183, first para.)

(see paragraphs 27-31, operative part)

Operative part

The first paragraph of Article 183 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax

must be interpreted as meaning that a taxable person is entitled to be paid interest for late payment on excess value added tax by the national tax administration where the latter has not refunded that excess within a reasonable period. The methods for applying that interest fall within the procedural autonomy of the Member States, circumscribed by the principles of equivalence and effectiveness, it being understood that the national rules relating in particular to the starting point for the calculation of any interest due must not amount to depriving the taxable person of adequate compensation for the loss caused by the late refund of that excess.