Downloaded from Blogs on 12.10.2026 11:47h

By PwC Deutschland | 29. November 2020

ECJ: Complaint for rejection of VAT refund applications by foreign companies upheld

The European Court of Justice (ECJ) upheld an action for breach of contract brought by the EU Commission against Germany in two of three claims. Germany had violated EU law insofar as it systematically refuses to request the information missing in an application for a VAT refund of foreign taxpayers and instead immediately refuses the refund applications in such cases if such information can be provided only after the 30 September deadline.

Downloaded from Blogs on 12.10.2026 11:47h

Background

Prior to enacting the proceedings the European Commission had received a complaint about the procedure of the German tax authorities regarding VAT refunds to EU foreigners. Numerous claims for reimbursement were rejected because the description of reported purchased goods or services was considered inadequate or inappropriate, without the authorities having first attempted to clarify the facts. Specifically, applications for VAT refunds submitted before the relevant 30 September deadline but which were not accompanied by copies of invoices or import documents have been rejected. The rejection was - as the Commission pointed out - based on purely procedural reasons, but not on substantive (material) grounds, to which the ECJ increasingly referred to in his recent case law.

Three claims of complaint were brought forward by the Commission: **First**, an infringement of the principle of neutrality under VAT law (a claim for a refund must be granted if all of the substantive material requirements are met), **second**, an infringement of the principle of practical effectiveness (enforcement of substantively existing VAT refund claims) and **third**, an infringement of the principle of legal protection (legitimate expectations).

Judgement

In its judgment the ECJ to a large extent agreed with the Commission's submissions.

The ECJ ruled that Germany has infringed its obligations under existing EU law by rejecting applications for VAT refunds submitted before 30 September of the calendar year following the refund period, namely where copies of the invoices or import documents required by the Member State were no duly attached. In these instances the competent tax office should first and foremost request the applicants to supplement their applications by submitting those copies, if necessary after that date, or to provide relevant information enabling those applications to be processed.

The court further underlined its ruling by referring to one of the fundamental principles on input tax adhered to by the court in recent case law: *"The ECJ has repeatedly ruled that the right to deduct input tax, and thus the right to a refund, is an integral part of the VAT mechanism and cannot in principle be restricted"*.

Source:

ECJ decision dated 18 November 2020, Case C-371/19 - *European Commission / Federal Republic of Germany (Remboursement de TVA – Factures)*

Schlagwörter

application for VAT refund, foreign business, rejection of VAT refund