



VAT refunds and reimbursements: A quantitative and qualitative study

*Assessment of national legislation determining
the conditions for repayment of excess VAT*

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Preface

This report has been prepared for the project "VAT refunds and reimbursements: A quantitative and qualitative study", Specific Contract No. TAXUD/2017/DE/328 implementing the Framework Service Contract No. TAXUD/2015/CC/131 for the provision of economic analysis in the area of taxation.

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Table of Contents

Preface	2
1. Introduction and background	4
1.1 Legal frameworks	4
1.1.1 VAT refunds	4
1.1.2 VAT reimbursements	5
2. Approach	8
2.1 Process and methodology	8
3. Compliance – overall analysis	9
3.1 Cross-border VAT refunds	9
3.1.1 Compliance assessment	9
3.1.2 Statistics	10
3.1.3 Analysis	10
3.1.4 Areas of non-compliance	10
3.1.5 Anecdotal evidence on the practical reality of claiming a VAT refund	12
3.2 Domestic VAT reimbursements	13
3.2.1 Compliance assessment	13
3.2.2 Statistics	14
3.2.3 Analysis	15
3.2.4 Areas of non-compliance	17
4. Common trends identified	18
4.1 Implementation of the EU Directives	18
4.2 Availability of published guidance, available to taxpayers, explaining the procedure for claiming a refund or reimbursement of VAT	18
4.3 Development of electronic portals	19
5. Proposed areas of improvement	20
5.1 Availability of and access to domestic published guidance	21
5.2 Language barriers	21
Annex 1: Glossary of terms	22
Annex 2: Compliance summaries	23
Annex 3: Anecdotal evidence on the practical reality of claiming a VAT refund	54



1. Introduction and background

The timely receipt of VAT refunds¹ and VAT reimbursements² is of vital importance to European businesses. This is particularly true of micro, small and medium-sized enterprises (“**MSMEs**”), for whom delays in payment can cause severe cash flow problems. As such, the issue of VAT refunds and reimbursements is a topic of strategic importance for the European Commission in its efforts to further the development of the internal market and to reduce unnecessary administrative burdens on, and costs for, businesses (whether operating across borders or in a single EU jurisdiction).

This report covers Section 1 of the study, and presents an analysis of:

1. How the relevant provisions of the EU VAT Directives have been implemented into domestic law;
2. The extent to which the domestic legislation in all Member States complies with the requirements of the Directives concerning both refund and reimbursement procedures; and,
3. The extent to which guidance published by Member States’ tax authorities on refunds and reimbursement claims, and the practice of tax authorities in dealing with such claims, comply with EU law and the principles established by judgments of the Court of Justice of the European Union (“**CJEU**”).

1.1 Legal frameworks

The mechanisms governing the right of refund or reimbursement are established in EU legislation and in the case law of the CJEU.

1.1.1 VAT refunds

In terms of VAT refunds, we have performed a detailed analysis of the domestic legislation, published guidance and/or tax authority practice implementing the relevant terms of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, and Council Directive 2008/9/EC of 12 February 2008 laying down detailed rules for the refund of VAT provided for in Directive 2006/112/EC (the “**Directives**”), to taxable persons established in a Member State other than the Member State in which a refund is sought.

Article 170 of Directive 2006/112/EC entitles taxable persons who purchase goods and services, or import goods subject to VAT in a Member State other than the Member State they are established in, to a refund of that VAT insofar as the goods and services are used for the purposes of the following:

- “Transactions referred to in Article 169, which are

¹ For the purposes of this study, VAT refunds are defined as a repayment of VAT paid in Member States other than the location in which a taxpayer is established (see the Glossary of Terms at Annex 1).

² For the purposes of this study, VAT reimbursements are defined as a repayment of domestic input VAT paid in excess of output VAT due (also see the Glossary of Terms at Annex 1).



- transactions relating to the activities referred to in the second subparagraph of Article 9(1), carried out outside the Member State in which that tax is due or paid, in respect of which VAT would be deductible if they had been carried out within that Member State;
 - transactions which are exempt pursuant to Articles 138, 142 or 144, Articles 146 to 149, Articles 151, 152, 153 or 156, Article 157(1)(b), Articles 158 to 161 or Article 164;
 - transactions which are exempt pursuant to points (a) to (f) of Article 135(1), where the customer is established outside the Community or where those transactions relate directly to goods to be exported out of the Community
- Transactions for which the tax is solely payable by the customer in accordance with Articles 194 to 197 or Article 199.”³

Article 171 (1) of the same Directive refers to Directive 2008/9/EC, where the detailed rules for the refund process are laid out.

Historically, Council Directive 79/1072/EC of 6 December 1979 on the harmonisation of the laws of the Member States relating to turnover taxes - Arrangements for the refund of value added tax to taxable persons not established in the territory of the country (the “**Eighth Directive**”), laid out a VAT refund procedure for EU Member States as well as the accompanying fundamental principles. This paper-based scheme, introduced in 1979, proved to be problematic in practice for both traders and national administrations. Therefore, in order to address the malfunctioning of the Eighth Directive refund regime, the Council adopted Directive 2008/9/EC which maintains the Eighth Directive’s fundamental principles while significantly modernising the practical procedures.

Accordingly, taxpayers are now able, via a portal website managed by the tax administration of the Member State in which the taxable person is established, to submit claims electronically for the refund of VAT paid in another Member State.

1.1.2 VAT reimbursements

Article 183 of Directive 2006/112/EC states the following:

“Where, for a given tax period, the amount of deductions exceeds the amount of VAT due, the Member States may, in accordance with conditions which they shall determine, either make a refund or carry the excess forward to the following period. However, Member States may refuse to refund or carry forward if the amount of the excess is insignificant.”

Unlike the legal framework for VAT refunds contained within Directive 2008/9/EC, Article 183 of Directive 2006/112/EC gives Member States the discretion to determine

³ Official Journal of the European Union, Volume 49 on 11 December 2006, “Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax”



how the right to reimbursement is implemented in domestic legislation and applied in practice.

Our analysis in relation to VAT reimbursements is therefore based on compliance with the principles established by rulings of the CJEU. In its rulings, the CJEU has consistently reinforced that a taxpayer's right to deduct input VAT incurred is fundamental and that any conditions placed on it should not affect its efficacy and basic application (Judgment of 22 October 2015, *Sveda*, Case C-126/14 EU:C:2015:712; Judgment of 14 September 2017, *Iberdrola Inmobiliaria Real Estate Investments*, Case C-132/16 EU:C:2017:683; Judgment of 16 July 2015, *Larentia + Minerva*, Cases C-108/14 and C-109/14 EU:C:2015:496; Judgment of 21 March 2018, *Volkswagen AG*, Case C-533/16 EU:C:2018:204; and Judgment of 12 April 2018, *Biosafe*, Case C-8/17 EU:C:2018:249).

The cases and principles taken into consideration in this report are as follows:

- Judgment of 21 January 2010, *Alstom Power Hydro*, Case C-472/08 EU:C:2010:32 (Case C-472/08 *Alstom Power Hydro*): Member States must lay down reasonable time limits that do not make it impossible in practice or excessively difficult to exercise the rights conferred by EU law;
- Judgment of 12 May 2011, *Enel Maritsa Iztok 3*, Case C-107/10 EU:C:2011:298 (Case C-107/10 *Enel Maritsa Iztok 3*): Repayments should not be delayed by Member States for an unreasonable period of time;
- Judgment of 6 July 2017, *Glencore Grain Hungary*, Case C-254/16 EU:C:2017:522 (Case C-254/16 *Glencore Grain Hungary*): The period of time reasonable for the repayment of a refund may be extended in order to carry out a tax investigation, and the extended time will not be regarded as unreasonable provided the extension does not go beyond what is necessary to complete this investigation;
- Judgment of 28 July 2011, *Commission v Republic of Hungary*, Case C-274/10 EU:C:2011:530 (Case C-274/10 *Commission v Republic of Hungary*): Exposing taxpayers to financial risk in respect of repayments, for example by making repayments conditional on meeting certain requirements that would generate financial risk for taxpayers over and above the risks generated by the requirements of the baseline VAT system, is prohibited;
- Judgment of 18 October 2012, *Mednis SIA*, Case C-525/11 EU:C:2012:652 (Case C-525/11 *Mednis SIA*): Repayments should only be withheld by Member States for justifiable reasons, such as suspected fraud being investigated;
- Judgment of 10 July 2008, *Alicja Sosnowska*, Case C-25/07 EU:C:2008:395 (Case C-25/07 *Alicja Sosnowska*): Member States are not prohibited from adopting precautionary national measures to ensure the accuracy of VAT declared, but the measures should not place a disproportionately high burden on taxpayers;
- Judgment of 24 October 2013, *Rafinaria Steaua Romana SA*, Case C-431/12 EU:C:2013:686 (Case C-431/12 *Rafinaria Steaua Romana SA*):



- Confirms the requirement for Member States to pay interest where a reimbursement is not paid within a reasonable period;
- Judgment of 16 March 2017, *Bimotor SpA*, Case C-211/16 EU:C:2017:221 (Case C-211/16 *Bimotor SpA*): Member States are not prevented from applying legislation which offsets a taxpayer's other tax debts against a VAT reimbursement claim, provided the taxpayer is not deprived of the basic right to reimbursement and tax recovery does not become impossible;
 - Judgment of 28 February 2018, *Nidera B.V.*, Case C-387/16 EU:C:2018:121 (Case C-387/16 *Nidera B.V.*): Emphasises the need for Member States' tax authorities to pay interest for delayed repayments and prohibits the arbitrary reduction of interest;
 - Judgment of 18 December 1997, *Garage Molenheide BVBA*, Cases C-286/94, C-340/95, C-401/95, C-47/96 EU:C:1997:623 (Cases C-286/94, C-340/95, C-401/95, C-47/96 *Garage Molenheide BVBA*): the CJEU ruling established that it is the responsibility of a Member State's national court to examine that criteria applied to the eligibility for a VAT reimbursement in the Member State are proportionate.
 - Judgment of 14 February 1985, *Rompelman*, Case C-268/83 EU:C:1985:74 (Case C-268/83 *Rompelman*): VAT is deductible when the taxable person has the intention to carry out an activity that is eligible for a VAT reimbursement and has adequate proof for this;
 - Judgment of 3 March 2005, *Fini H*, Case C-32/03 EU:C:2005:128 (Case C-32/03 *Fini H*): VAT incurred for activities of the taxable person after the end of the activities remains deductible;
 - Judgment of 21 March 2018, *Volkswagen AG*, Case C-533/16 EU:C:2018:204 (Case C-533/16 *Volkswagen AG*): Where a Member State has placed a time limit on the recovery of input VAT, the time limit should begin to run from the point at which the substantive and formal conditions for VAT recovery have been fulfilled. In practice, this is when a VAT invoice is issued to or received by the taxpayer;
 - Judgment of 12 April 2018, *Biosafe*, Case C-8/17 EU:C:2018:249 (Case C-8/17 *Biosafe*): In cases where invoices have to be corrected, the time limit for recovery of VAT begins to run from the point at which the customer has received the correct VAT invoice, not when the original invoice was received;
 - Judgment of 11 April 2013, *Rusedespred*, Case C-138/12 EU:C:2013:233 (Case C-138/12 *Rusedespred*): This case examines the possibility to obtain a refund of VAT invoiced in error, subject to the condition that the invoice is corrected. The CJEU determined that a condition attached to a claim for reimbursement must not be impossible to satisfy and the principle of neutrality can be relied on;
 - Judgment of 25 October 2001, *Commission vs Italy*, Case C-78/00 EU:C:2001:579 (Case C-78/00 *Commission vs Italy*): the reimbursement of excess VAT in the form of Government bonds is not compatible with the VAT system;



- Judgment of 22 October 2015, *PPUH Stehcemp*, Case C-277/14 EU:C:2015:719 (Case C-277/14 *PPUH Stehcemp*): VAT invoiced by a non-existent taxpayer should be deductible (for cases of fraud); and
- Judgment of 19 July 2012, *Littlewoods Retail*, Case C-591/10 EU:C:2012:478 (C-591/10 *Littlewoods Retail*): The taxpayer has a right to receive reimbursement of the tax paid in breach of EU law including interest payments. However, it is for Member States to set the conditions, in compliance with EU principles of equivalence and effectiveness.

2. Approach

2.1 Process and methodology

In order to collect the data necessary for our analysis in a uniform format, a standardised template was developed on which to collate summaries of the domestic legislative provisions, published guidance and tax authority practice for both refunds and reimbursements.

The format of the template was based on the lifecycle of a refund or reimbursement claim in conjunction with the relevant Directive. However, due to differences in the approach of the Directives, the detail of the refund and reimbursement summaries is different.

The refund summaries set out the domestic legislation, published guidance and tax authority practice corresponding to the relevant articles of Directive 2008/9/EC. On the other hand, the reimbursement summary poses a number of specific questions relating to Article 183 of Directive 2006/112/EC, based on the jurisprudence from the CJEU. Specific CJEU rulings were added to the reimbursement summary where relevant to draw attention to the principles underpinning specific questions.

A range of public domain data sources including the relevant domestic legislation, published tax authority guidance, as well as PwC's proprietary publications were used to complete the responses. In addition, these data sources were supplemented with the European Commission's detailed guides on certain VAT topics (Vademecums).

Completed summaries were shared with PwC's VAT experts in each Member State for review. This review included a check for completeness, accuracy and correctness of the English translations of relevant provisions in the domestic legislation and publicly available guidance.

With regards refunds, the in-country experts were asked to provide commentary from the perspective of their Member State as the Member State of Refund, not the Member State of Establishment.

Commentary on the practical realities of securing a reimbursement were also requested from the in-country VAT experts, with a particular focus on common issues/challenges faced by taxpayers.



3. Compliance – overall analysis

We have set out the background and approach to the compliance assessment below, as well as the statistics on compliance taken from our analysis.

3.1 Cross-border VAT refunds

3.1.1 Compliance assessment

A Member State's compliance with EU law in relation to refunds has been assessed by considering:

- How and to what extent each of the relevant refund provisions set out in Directive 2008/9/EC have been implemented into domestic law; and,
- Whether there is any published guidance for taxpayers in place, or if not, what the normal practice of the tax authority is in the Member State of Refund (as experienced by PwC's VAT experts in the Member State of Refund).

The statistics detailed below are a result of the above assessment process. A Member State has been classified as either "compliant", or "non-compliant" as follows:

- **Compliant:** a Member State has been determined to be compliant where:
 - All mandatory provisions of the relevant Directive have been implemented accurately and without omission; and,
 - Published guidance and/or tax authority practice (where applicable) are also all in line with the terms of the EU legislation.
- **Non-compliant:** a Member State has been determined to be non-compliant where:
 - Not all mandatory provisions of the relevant Directive have been implemented accurately and without omission; and
 - Published guidance and tax authority practice (where applicable) do not remedy the omission and/or inaccurate implementation.

Where one or more of the domestic legislative provisions, published guidance and/or tax authority practice are not in line with the terms of the EU legislation but the overall effect for the taxpayer is in line with EU legislation (for example, the domestic legislation does not implement the Directive correctly but the published guidance shows a tax authority's approach is in line with the Directive), this has been described as "compliant". Such instances have however been highlighted within the Member State summaries for further consideration by the European Commission.



3.1.2 Statistics

As Directive 2008/9/EC sets out the scope, conditions and process for refund claims to be implemented by Member States, there is a legislative roadmap for Member States to follow and a level of consistency for taxpayers across the EU-28.

The statistics from our analysis are set out below:

- Our analysis has identified 20 Member States (Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Greece, Hungary, Ireland, Lithuania, Luxembourg, Malta, Slovenia, Slovakia, Sweden and the UK) which are compliant in a refunds context.
- Our analysis has identified 8 Member States (Germany, Italy, Latvia, the Netherlands, Poland, Portugal, Romania, and Spain) which are non-compliant in a refunds context.

3.1.3 Analysis

Although there are instances where the domestic legislation does not comply with Directive 2008/9/EC, our analysis has demonstrated that Member States have not, in the legislation at least, sought to impose further requirements or demands on taxpayers seeking a refund, over and above the requirements set out in that Directive.

Further, there are instances where a Member State has implemented provisions set out in Directive 2008/9/EC in the domestic legislation, but the domestic legal provisions do not fully clarify the Member State's obligation in relation to this right (e.g. Austrian legislation gives the tax authority the right to request more information in relation to a refund application but does not set out a time limit by which this information needs to be requested). The other significant instances of non-compliance have centred on the Member State's role in enabling taxpayers to exercise the rights arising from Directive 2008/9/EC to secure a VAT refund. For example, this has included payments being made with delays and reasons for decisions not being provided by the tax authorities.

Annex 2 below provides country-level compliance summaries.

3.1.4 Areas of non-compliance

Articles 20, 23(1), 24 and 25 of Directive 2008/9/EC have, in our analysis, been found to be areas where there is a notable degree of non-compliance. To summarise the purpose of these provisions:

- Article 20 sets out the power Member States have to request further information to support a refund claim from the taxpayer and/or the Member State of Establishment;



- Article 23(1) sets out the requirement for a tax authority to provide reasons when a refund claim is rejected;
- Article 24 concerns the actions of a Member State where there has been a fraudulent claim;
- Article 25 concerns the process of making a change to a previous refund application and the impact of this on a current application; and
- Article 26 requires interest to be paid to taxpayers when a refund has been paid outside of the applicable time limit.

The specific areas of non-compliance are as follows:

- Germany: there is non-compliance with Article 20 in Germany as the tax authorities in some cases reject claims without asking for additional information, i.e. there is an automatic process of rejecting claims that are considered to not meet certain criteria without giving the taxpayer a chance to provide additional information in support of the claim⁴.
- Italy/Latvia/the Netherlands/Poland/Spain: there is non-compliance with Article 23(1) in all of these Member States as there is no requirement within domestic tax legislation or published guidance for the tax authority to provide reasons for the rejection of a claim. Whilst a right to be given reasons for a decision is set out under general legal provisions/principles in all of these Member States save for Latvia, we have identified that reasons are not provided as a matter of tax authority practice in all of these Member States.
- Germany: there is non-compliance with Article 24 as the procedure for recovering amounts paid as a result of a fraudulent claim is not in the domestic legislation, nor has a consistent tax authority process been identified.
- Portugal/Spain: there is non-compliance with Article 25 as there is no provision in the domestic legislation for corrections to previous claims to be taken into account, nor has a tax authority process been identified.
- Romania: there is non-compliance with Article 26 as Article 26(2) has not been implemented in domestic law and, in practice, claims for interest are often rejected by the tax authority.

⁴ It is noted that the European Commission has commenced infringement proceedings against Germany in respect of its non-compliance with Article 20 (see the press release dated 24 January 2019: IP/19/472)

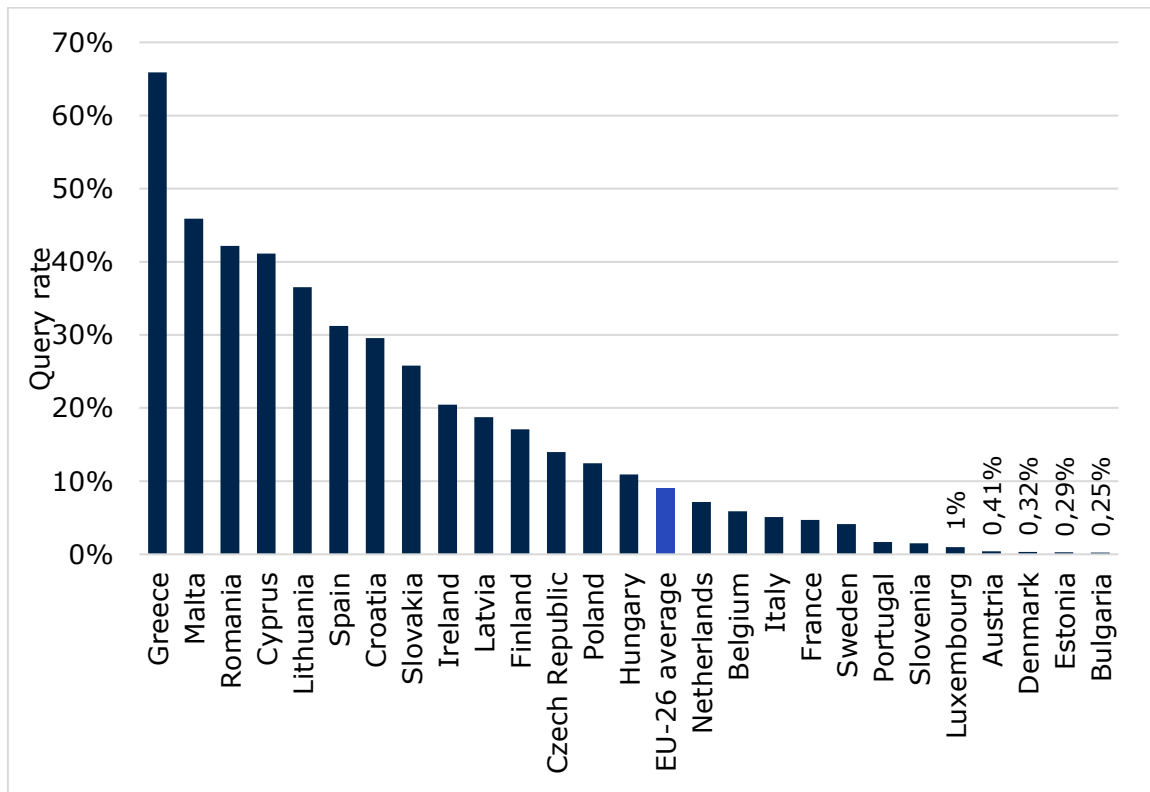


Figure 24 from the Final Report – Query rate per EU-26 Member States in 2016.

As noted above, the rates of enquiry by tax authorities prior to the rejection of a claim have been shown to be an area of non-compliance in a refunds context⁵.

3.1.5 Anecdotal evidence on the practical reality of claiming a VAT refund

In addition to the instances of non-compliance in the above noted Member States, businesses in these, and other, Member States have also indicated other problems with the VAT refund process. Anecdotal evidence gathered from the IVA identifying these challenges has been added into the refund country summaries, and Annex 3 below compares the compliance analysis against country-specific commentary from the IVA.

In examining the anecdotal evidence gathered from the IVA, certain trends have been identified in the VAT refund process throughout the EU Member States.

The specific areas of challenges identified are as follows:

- Documentary evidence: (Austria, Bulgaria, Croatia, Czech Republic, Denmark, Finland, Germany, Hungary, Italy, Romania, Spain, Sweden and UK). Businesses have reported that additional information and document requests

⁵ The German tax administration does not provide data on VAT refunds to the Standing Committee on Administrative Cooperation and declined to participate in this study's survey of tax administrations in respect of VAT refunds.



have become increasingly common and complex in nature. Complex and repeated documentation requests may dissuade businesses from making an application given the time and costs associated with responding to the additional requests.

- MSEST portal and other technical issues: (Austria, Estonia, Finland, Greece, Hungary, Lithuania, Netherlands, Poland, Portugal, Romania, Spain, Sweden and UK). Anecdotal evidence from the IVA suggests a number of issues relating to the MSEST portal. These include technical issues which prevent businesses from submitting a claim and instances of the local tax authority preventing businesses from outside that Member State accessing the portal. There have also been instances where confirmation of receipt has not been sent by the tax authority once an application has been submitted through the portal.
- Classification of expenditure: (Austria, Bulgaria, Czech Republic, Ireland, Spain, UK). Businesses have reported that classification of expenditure by local tax authorities has been unconventional. Most prominently, it has been noted that local tax authorities have treated travel and accommodation expenses as 'entertainment'.
- Language barriers: (Czech Republic, Estonia, Germany, Poland and Romania). Evidence has shown that claims are being rejected when not submitted in the local language despite being in a widely used business language (i.e. English, French or German).
- Filing process: (Denmark, Italy, Poland, Portugal and Spain). It has been reported that claims have been rejected on the basis of inadequate invoices submitted as evidence (e.g. invoices that lack a VAT registration number are deemed unsuitable).
- Interest payments: (Estonia, Italy, Netherlands, Romania). Anecdotal evidence from the IVA has shown that some local tax authorities are inconsistent with their approach to payment of interest following late payment of a refund, with some never paying interest.

Figure 36 – Common reasons used by tax administrations to reject claims in 2016 and Figure 37 – Common reasons used by tax administrations to reject claims according to businesses, from the Final Report, are also referenced in the context of compliance in this area.

3.2 Domestic VAT reimbursements

3.2.1 Compliance assessment

As noted above, the analysis of compliance for reimbursements is different to that carried out for refunds. Unlike refunds, Member States have a certain level of discretion as to how the right to a reimbursement is given effect and so there is no check-list of provisions from EU legislation to validate.



Our assessment has therefore focused on the scope and conditions of the right to reimbursement as detailed by the CJEU in key judgments.

As part of our assessment, the domestic legal provisions, published guidance and tax authority practice in relation to reimbursements, as well as comments from in-country experts on the practical reality of securing a reimbursement in the Member States have been analysed. The conditions, scope and principles of the right of reimbursement set out in case law have then been applied to review the compliance of these areas.

In contrast to refunds, instead of denoting whether a Member State is compliant or non-compliant and then additionally highlighting issues/challenges encountered in practice, a different approach has been adopted for reimbursements. Specifically, we have identified those principles and conditions that a Member State has not addressed within its legislation, those principles and conditions that are not being applied effectively in practice and particular areas/stages of the process where issues/challenges have been identified by the in-country experts. These areas have then been considered together to highlight areas of concern/further investigation.

3.2.2 Statistics

The following statistics should be highlighted:

- We have identified 20 Member States (Austria, Belgium, Croatia, Cyprus, the Czech Republic, France, Germany, Greece, Hungary, Ireland, Latvia, Lithuania⁶, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the UK) in which taxpayers face issues when seeking reimbursements of VAT which could lead to a potential infringement of the right to deduct and the principle of neutrality. These issues primarily concern the conditions taxpayers are required to meet before a claim will be repaid, and the length of time taken for a taxpayer to receive a reimbursement.
- We have identified 2 Member States (Austria and Germany) in which there is both no requirement to pay interest in domestic law and interest is not paid in practice by the tax authority on a delayed repayment, despite this being a requirement set out in CJEU case law.
- We have identified 6 Member States where separate issues with regards to interest have been highlighted:
 - In Hungary, although there is a general right to interest in domestic law, the period taken to carry out an audit is not to be considered when determining whether the VAT reimbursement deadline has passed and

⁶ In Lithuania, no issues with regards to late interest payment were noted as following *Nidera (C-387/16)*, Article 87(9) of Lithuanian law on tax administration has been amended to ensure that if the tax authority fails to refund the tax overpayment within the statutory time limit, the rate of interest payable cannot be reduced.



whether interest has become due, i.e. taxpayers bear financial risk whilst an audit is being undertaken.

- In the UK, there is experience of the tax authority raising enquiries in order to stop interest accruing – this is a parallel to the situation in Hungary, described above.
- In Slovakia, the right to interest only arises if an audit is performed by the tax authorities and reimbursement is delayed by more than 6 months. The right to interest is therefore not available in a consistent manner for taxpayers.
- In Romania, although interest is available, this is not granted automatically and taxpayers have to make a specific request for it from the tax authority. These claims are usually rejected and litigation is necessary, where the claims are then usually approved. Further time and cost is therefore incurred by taxpayers in exercising this right.
- In Portugal, whilst interest is available, the calculation stops at the point when a note is issued by the tax authorities confirming that repayment is to be made. However, the repayment itself may not be made for another few days (e.g. the time it can take for a payment to be processed through the banking system), which could leave the taxpayer left without a complete amount of interest.
- In Belgium, whilst there is a right to interest, this only arises after 3 quarters. This can again leave the taxpayer without a complete amount of interest which fully reflects the impact of having overpaid the reimbursed amount.

3.2.3 Analysis

It is apparent from our analysis of the data collected that Member States have sought to implement detailed legislation addressing the process and scope of the right to reimbursement.

However, our analysis did identify a number of issues in practice, the most common of these concerning the timing of repayments and when checks or requests for further documents are carried out. Issues on timing are especially concerning given the case law (e.g. Case C-387/16 *Nidera B.V.*).

There is a trend of Member States taking a significant amount of time to repay reimbursement claims. The comments from our in-country experts indicate that delays are often a result of repeated and extensive document requests, and drawn-out claim verification processes. Our in-country experts also indicate that factors such as the quantum of a claim, and whether a taxpayer is a repayment trader, often affect the stringency of claim checks and document requests. There is nothing within Directive 2006/112/EC that allows for such an approach.



The analysis as to whether there has been a “delay” or not is relative to the time limits in place for meeting a reimbursement claim in each Member State. The maximum time to pay a reimbursement claim and the general delays experienced by taxpayers are set out in the compliance summaries at Annex 2. It is noted for completeness that in Austria and Ireland, there is no time limit within domestic legislation for a reimbursement claim to be paid.

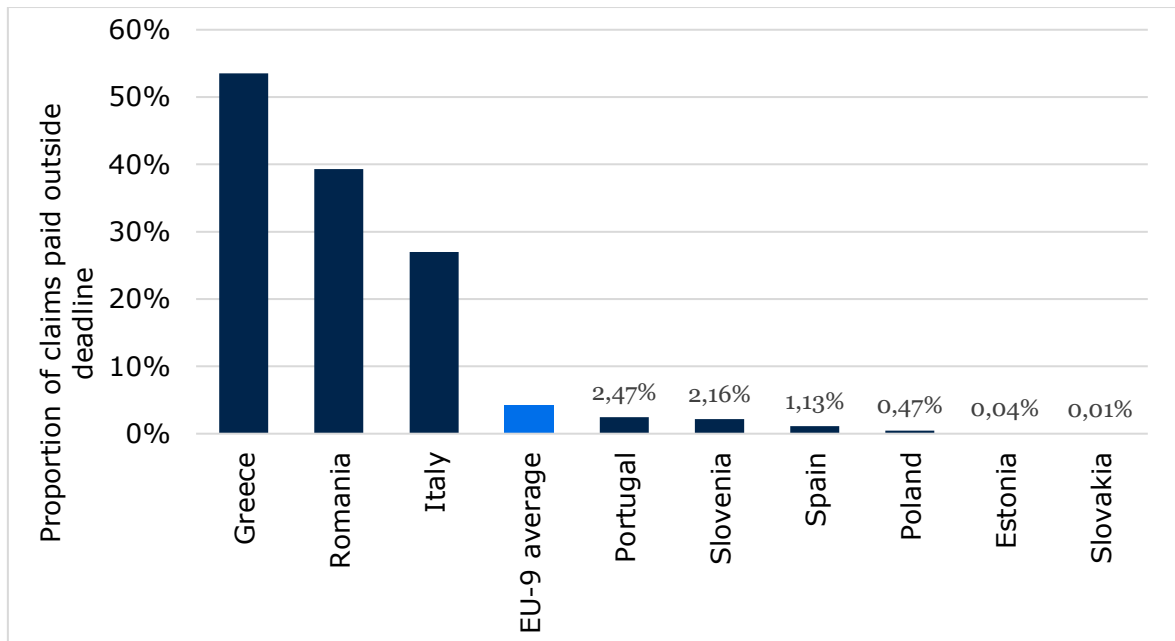


Figure 102 from the Final Report – Proportion of claims paid outside deadline per EU-9 Member States in 2016.

Although the requirement to pay a financial guarantee before making a claim is not widespread, particular concerns with regards guarantees have been highlighted in Italy and Belgium. Specifically, a particular concern with regards the amount of such guarantee required in Italy has been raised by the in-country experts. Further, the simplification process introduced by the tax authorities in Italy, whereby taxpayers can avoid the payment of a tax guarantee by having a claim verified by an authorised intermediary, has been highlighted as requiring stringent criteria to be met. In Belgium, the taxpayer is in principle not required to provide a financial guarantee when requesting a reimbursement. However, in case the tax authorities do not agree with the VAT reimbursement, they have the power to impose conservatory measures. Consequently, the tax authorities will seize the VAT credit, although the taxpayer can opt to provide a bank guarantee in order to prevent a seizure of the VAT credit.

Another issue that has also come to light is the effect Member State approaches have on how taxpayers approach reimbursements. For example, in-country experts in Belgium, Greece and Lithuania have advised that taxpayers often choose to carry reimbursements forward rather than seek repayment due to factors such as the time/costs of investigations required before repayment is made and also the time taken for repayments to be received. Although the value of the reimbursement is



recognised and so is not lost, the timing difference between carrying the amount forward and it being used in the future, as opposed to it being accessible for immediate use, represents an impact on cash flow. Depending on the financial situation of the business, this could lead to taxpayers taking on financial risk, especially where the reimbursement amount is significant.

Whilst the above issues are of concern, the local experts in all but one of the Member States have indicated that the approach to VAT reimbursements is similar to the approach for claims in other taxes, for example, claims for repayments of excess corporation tax. In particular, in all but one of the Member States, in-country experts have commented that the process for VAT reimbursements is not more onerous than other claim processes or that the time taken for repayment of a VAT reimbursement is significantly different to other tax repayments. In Belgium however, the in-country experts have commented that a request for a VAT reimbursement automatically triggers a tax audit and this is different to when a repayment of another tax is sought.

Annex 2 below provides country-level compliance summaries.

3.2.4 Areas of non-compliance

As indicated above, we have identified some common issues arising in respect of reimbursements:

- The process undertaken by Member States to verify claims for reimbursement is not always consistent. For example, there are instances of tax authorities tending to request more supporting documentation if the claim is large or the taxpayer is frequently in a VAT repayment position.
- The timing of repayments is sometimes influenced by factors such as the quantum of the claim. There are Member States where reimbursements can take in excess of 12 months to process.
- Timelines within the domestic legislation are not always respected, especially when it comes to requests for further information.
- Disputes during the claim verification process may arise not just because of issues with the claim but, according to our in-country experts, because of the level of knowledge of the tax inspector concerned.
- Inconsistencies in the level of information required to obtain a payment also arise within Member States, for example between different tax offices in different regions and depending on the size/turnover of the taxpayers.
- Whilst all Member States allow in principle the recovery of VAT incurred prior to registration or after activity has ceased, in-country experts have identified this as an area of dispute, particularly with regards demonstrating the intention to commence taxable activity.



- There are also issues with the requirement to keep filing VAT returns after cessation of activity to get a reimbursement, as well the requirement to have some turnover before VAT incurred can be recovered.

Reference is also made here to Figure 98 – Common reasons used by tax administrations to reject claims and Figure 99 – Common reasons used by tax administrations to reject claims according to business, in the Final Report.

4. Common trends identified

4.1 Implementation of the EU Directives

The legislative provisions for refunds and reimbursements are considerably different. The right of reimbursement is contained in a single provision (Article 183 of Directive 2006/112/EC) and Member States are required to implement domestic legislation giving effect to this right. The process for refunds is, in contrast, more prescriptive.

The vast majority of Member States have sought to implement large sections of Directive 2008/9/EC relating to refunds into their domestic legislation. This conclusion is based on our reading of the English text of the Directives and an English translation of the domestic provisions (although we do not consider that this conclusion would be different if the local language versions of the Directive and domestic provisions were considered).

This trend is not as relevant when it comes to reimbursements, as Member States enjoy a certain flexibility to give effect to the right of taxpayers to recover these amounts. This flexibility unsurprisingly leads to variances in the reimbursement processes throughout the EU-28.

4.2 Availability of published guidance, available to taxpayers, explaining the procedure for claiming a refund or reimbursement of VAT

Of the EU-28, 24 Member States have publically available guidance on either refunds or reimbursements. These are Belgium, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the UK.

There are also instances where guidance is provided to tax officers but this is not published outside the tax authority.

Publicly available guidance can be helpful to taxpayers on points of a practical nature. For example, details such as the scope of a category of expenses recoverable by taxpayers, and where a portal can be located, are more likely to be contained in published guidance than in the domestic legislation itself. To this extent the availability of this information to taxpayers is positive.



In our view, situations where there is no publicly available guidance create three potential issues:

1. They increase the need for taxpayers to instruct domestic advisers – someone with experience and who understands the procedure within a Member State;
2. Taxpayers with limited experience and/or smaller taxpayers less able to pay advisers may be at a disadvantage if they are unable to obtain professional help; and
3. They increase the risk of an inconsistent application of the rules by different offices and officers within a Member State, as interpretations and approaches may vary without published central guidance.

It is clear from the above that there is likely to be a financial impact of not having guidance published and made available to taxpayers. This is primarily concerned with necessitating the use of a domestic adviser or expert to navigate the legislation and also the procedure that is adopted. The lack of publicly available guidance could increase the cost of doing business in a particular Member State, as the taxpayer will be required to spend money on instructing an adviser to submit their application. Task 2, and the survey of businesses, will address this issue from a business' perspective.

An overall effect of the limited availability of published guidance is on legal certainty. Specifically, without published guidance on the application of the law, taxpayers (both in a refund and reimbursement context) could face more uncertainty in knowing how the law will apply to them (or how the officer dealing with their case may interpret and apply the law). From the perspective of the domestic tax authorities, any uncertainty could potentially result in more information being needed from taxpayers (as taxpayers are more likely to provide incorrect and/or incomplete information if there is uncertainty on the requirements) and also potentially more disputed claims.

4.3 Development of electronic portals

The use of electronic portals is mandated for the refund process and all Member States have established these.

However, our analysis has shown that the term "portal" has been applied differently across the Member States. Some Member States have taken portal to simply mean an online submission system. Whereas others have taken it to mean a more interactive function for taxpayers to both submit and monitor claims. For example, in addition to allowing claim amendment, real-time updates are also available in some Member States.

Regardless of the level of functionality of portals, there are still instances of issues such as certain file types not being accepted or portals experiencing technical issues. However, this has not been identified as widespread or causing significant concern for



taxpayers. It is clear that the existence and widespread development of the electronic portals is a positive development.

It is apparent too that a number of Member States are continuing to introduce more functionality and even security (for example, with the use of encryption) to their portals. This continues to aid the simplification and integrity of the process and, as analysed below, is beneficial for taxpayers.

For refunds an electronic portal means that a taxpayer does not necessarily need to engage representatives in that Member State. This is especially beneficial for smaller taxpayers, who have the ability to access the portal remotely and who may not have significant budgets for the use of external advisers. Online portals therefore reduce the costs of making a claim (not accounting for any onerous post-submission requests). The benefits of this are likely to be felt most clearly by small and medium sized businesses.

Another benefit of electronic portals is their flexibility of use and the ability to upload information on a real-time basis. Particularly when it comes to the submission of relevant documentation (e.g. supporting invoices), electronic portals are likely to be less cumbersome than the repeated sending of emails and attachments. A portal also avoids issues such as attachment sizes becoming an issue for claim submission.

This trend is not as relevant for reimbursements as these are usually primarily sought as part of a taxpayer's VAT return filing process. There are situations when a reimbursement claim will need to be made outside the VAT return process (e.g. when a taxpayer ceases activity) but no different issues or trends have been identified in these cases by the in-country experts. An electronic process for reimbursement (either through the VAT return or otherwise) is notably not imposed by Article 183 of Directive 2006/112/EC in any event, although the majority will be secured through the VAT return process, which (subject to a small number of exceptions) are to be made electronically.

5. Proposed areas of improvement

Taking into account the trends identified above, we propose two suggestions that could be implemented to address arising issues.

These suggestions are presently based on our analysis of the domestic legislation, published guidance and tax authority practice within the Member States, but will be developed further in the business and tax authority surveys.

For example, it could be that businesses within a particular Member State where there is no published guidance have another means of communication and contact with the tax authority, and have developed an understanding of the application of the legislation in this way. This could in turn alleviate the need for published guidance. A fuller picture will, therefore, be presented as this project progresses.



5.1 Availability of and access to domestic published guidance

As mentioned above, the limited availability of published guidance is an area of concern. It impacts smaller taxpayers and those without access to professional advice in particular. It also places significant emphasis on the practice and experience of advisers. Further, it could impact legal certainty, as the tax authority could potentially change its practice or interpretation and there would be no written indication of this by way of amendments to existing guidance. There is also an impact on transparency as the lack of published central guidance could result in an inconsistent application of the law within a Member State by different offices/officers.

We consider that this is an area where further work would be helpful. In particular, encouraging Member States to publish guidance that assists taxpayers would help alleviate possible issues.

For those Member States where guidance is given to tax officers but this is not publicly available, we would recommend encouraging such Member States to publicise the guidance to taxpayers. This will help taxpayers navigate the legislation and reinforce legal certainty.

5.2 Language barriers

In a body as diverse as the EU, language issues will arise. Article 12 of Directive 2008/9/EC is a discretionary provision, providing that: "*The Member State of refund may specify which language or languages shall be used by the applicant for the provision of information in the refund application or of possible additional information*". Therefore, it is up to the Member State whether or not they specify that a specific language should be used.

Our analysis shows that language has the potential to be an issue in the area of refunds. Whilst we understand that one of the reasons for the creation of web portals was to alleviate language issues, requirements as to the use of a particular language even in these portals means the likelihood of difficulties remains. Further, issues have been suggested as arising when a taxpayer has to follow-up directly with the tax authority on a particular point.

As the data shows, most Member States only advocate the use of one of two or three official languages. There is some consistency in the languages that are utilised. For example, English and German are very commonly allowed in a large proportion of the Member States. However, this does not alleviate the issue that could arise for taxpayers not fluent in these languages. A small number of Member States require that submissions be made in the local language only.

It will no doubt be challenging to agree the languages that are to be utilised consistently across Member States. However, we suggest that some co-ordination in this respect would be of assistance to minimise the risk of language issues arising.



Annex 1: Glossary of terms

- **Guidance:** publically available instructions/advice on the application of tax legislation issued by a tax authority in a Member State.
- **Tax authority practice:** the practical application of the legislation and published guidance (where available) by a tax authority (based on commentary from in-country PwC VAT experts).
- **Compliant:** a Member State where the implementing legislation, published guidance and tax authority practice in respect of refunds or reimbursements taken together give full effect to the terms of Council Directive 2006/112 and/or relevant case law principles.
- **Non-compliant:** a Member State where all of the implementing legislation, published guidance and/or tax authority practice in respect of refunds or reimbursements do not comply with the terms of Council Directive 2006/112 and/or relevant case law principles, or do not give full effect to them.
- **Implementation:** the domestic legislation as enacted within a Member State to give effect to the relevant EU Directives.
- **Domestic legislation:** the legislation enacted within a particular Member State.
- **Refund:** a repayment of VAT made under the auspices of Directive 2008/9/EC as implemented in a Member State to a taxpayer not established in that Member State.
- **Reimbursement:** a repayment of VAT made under the auspices of Article 183 of Council Directive 2006/112 as implemented in a Member State to a taxpayer established in that Member State.



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Annex 2: Compliance summaries

Member State	Refunds	Reimbursement
<p>Austria</p>	<p>Austria is compliant with Directive 2008/9/EC. However the following issues have been identified:</p> <p><u>Article 13 and Article 25</u></p> <ul style="list-style-type: none"> • Article 13 and Article 25 have not been implemented in domestic law. These articles concern the process of allowing claimants to make a correction to the amount of a refund application. • However, PwC in-house experts have confirmed that, in practice, such corrections can be made. <p><u>Article 15</u></p> <ul style="list-style-type: none"> • The domestic law is not compliant with Article 15 as it does not state that the Member State of Establishment must send the applicant an electronic confirmation of receipt without delay. • However, this is not considered to have a material impact on the ability for taxpayers to exercise their rights. <p><u>Article 24</u></p>	<p><u>Delays</u></p> <p>There is no stipulated time frame in the legislation for when reimbursement should be paid. This can cause uncertainty for taxpayers.</p> <p>Under Austrian law, the reimbursement may be limited to the amount that exceeds the tax liabilities due within 3 months of the filing of the application for reimbursement. Further, an invoice has to be included in the period incurred. This can limit the exercise of the reimbursement right.</p> <p><u>Late payment interest</u></p> <p>Domestic law does not provide for the payment of interest in case of delays to repayment.</p>



Member State	Refunds	Reimbursement
	<ul style="list-style-type: none">• Article 24 has not been implemented in domestic law. This article concerns the recovery of amounts refunded incorrectly or through claims that were deemed to be fraudulent.• However, general rules in the Austrian VAT system state that input VAT cannot be deducted if a taxable person knew that the transaction in question is fraudulent. Thus, in case of VAT refunded incorrectly or as a result of fraud, the Member State of Refund can recover these amounts. <p><u>Article 26 and Article 27</u></p> <ul style="list-style-type: none">• Article 26 and Article 27 have also not been implemented in domestic law. These articles concern the payment of interest in respect of delayed payment of refunds to claimants.• However, PwC in-house experts advised that this is implied and followed in practice.• Similarly, although Article 27(2) regarding how late interest should be calculated has not been implemented in domestic law, the tax authority practice is in line with the Directive.	
Belgium	Belgium is compliant with Directive 2008/9/EC.	<u>Delays</u> Belgian tax authorities are able to seize a reimbursement amount in certain situations, such as where there is an ongoing but unrelated dispute or the



Member State	Refunds	Reimbursement
		<p>reimbursement is challenged.</p> <p>This can affect the taxpayer's rights under EU law and PwC in-house experts have advised that this result in taxpayers carrying forward amounts instead of seeking payment.</p> <p>The maximum deadline to make reimbursement payments in Belgian law is 3 months and comments as to delay are in relation to this timeline.</p> <p><u>Late payment interest</u></p> <p>Late payment interest on delayed claims only begins to accrue after three quarters.</p>
Bulgaria	<p>Bulgaria is compliant with Directive 2008/9/EC. However the following issues have been identified:</p> <p><u>Article 3</u></p> <ul style="list-style-type: none">• Bulgarian rules require that the claimant does not have a fixed establishment in Bulgaria irrespective of whether or not business transactions have been affected by it. In practice this means that a claimant with a fixed establishment in Bulgaria, which has not carried out transactions in Bulgaria during the period, would not be able to claim a VAT refund under Directive 2008/9/EC.• Claimants who have carried out zero-rated supplies in	<p>No issues were reported with regards to reimbursement claims in Bulgaria.</p>



Member State	Refunds	Reimbursement
	<p>Bulgaria are also allowed to make a claim. Thus, a VAT refund is possible even if the foreign taxable person has performed intra-community supplies of goods or exports with a place of supply in Bulgaria. This scope is wider than that provided by Directive 2008/9/EC.</p> <p><u>Article 15</u></p> <ul style="list-style-type: none">• The wording of the domestic law implementing Article 15(1) does not have the equivalent of the following wording, "the application shall be considered submitted only if the applicant has filled in all the information required under Article 8,9 and 11" however the effect for taxpayers is the same. <p><u>Article 23</u></p> <ul style="list-style-type: none">• There is no explicit provision within domestic law for ensuring that the claimant is provided with reasons for refusal of a VAT refund claim. This can result in challenges during the appeal process as the taxpayer is not fully aware of the reasons for rejection. <p><u>Article 27</u></p> <ul style="list-style-type: none">• Article 27(2) has been excluded when transposing Article 27 into Bulgarian domestic legislation. This article concerns the rate of interest paid to claimants in respect of late payment of refunds.• Therefore, while the right to receive a payment of interest when claims are paid outside deadline is	



Member State	Refunds	Reimbursement
	maintained, the exact amount is not immediately apparent to claimants.	
Croatia	<p>Croatia is compliant with Directive 2008/9/EC. However the following issues were identified:</p> <p><u>Article 23</u></p> <ul style="list-style-type: none">• Article 23 has not been implemented in domestic legislation. This article concerns the requirement for the Member State of Refund to provide the grounds of refusal of a refund claim to applicants.• This can result in challenges during the appeal process, as the taxpayer is not fully aware of the reasons for rejection.• However, since taxpayers have access to general legal remedies, reasons for rejections are available to them in practice.	No issues were reported with regards to reimbursement claims in Croatia.
Cyprus	<p>Cyprus is compliant with Directive 2008/9/EC. However the following issues have been identified:</p> <p><u>Article 14</u></p> <ul style="list-style-type: none">• Article 14(2) has not been implemented into domestic law. The article concerns applications relating to invoices or import documents not covered by previous refund applications and concerning transactions completed during the calendar year in question being	No issues were reported with regards to reimbursement claims in Cyprus.



Member State	Refunds	Reimbursement
	<p>eligible for refund.</p> <p><u>Article 25</u></p> <ul style="list-style-type: none">• Article 25 has not been implemented in Cypriot domestic legislation. This article concerns the requirement for the Member State of refund to take into account as a decrease or increase of the amount of the refund any correction made concerning a previous refund application in accordance to Article 13.• However, in practice, the tax administration takes into account any decrease or increase in the amount of the refund if any corrections concerning the previous refund application are made in accordance with Article 13, or where a separate declaration is submitted in the form of separate payment or recovery. <p><u>Article 7</u></p> <ul style="list-style-type: none">• Article 7 has not been implemented in domestic legislation. This article concerns the requirement for refunds to be submitted via a portal set up in the Member State of Establishment.• However, in-house PwC experts have confirmed an electronic portal is used in practice. <p><u>Article 15</u></p> <ul style="list-style-type: none">• Article 15(2) has not been implemented in domestic	



Member State	Refunds	Reimbursement
	<p>legislation. This article requires the Member State of Establishment to send the applicant an electronic confirmation of receipt without delay.</p> <ul style="list-style-type: none">• This can result in issues for taxpayers when seeking to appeal a decision, as they are likely to not receive an electronic confirmation of receipt of application. However, this is tempered by the fact decisions are explained and provided for. <p>Article 22</p> <ul style="list-style-type: none">• Article 22(2) has not been implemented in domestic legislation. This article concerns the requirement for the refund to be paid in the Member State of Refund, or upon the applicant's request, in any other Member State.• However, in practice, the refund is paid to the account indicated by the taxpayer. Therefore, it has the required effect in practice.	
Czech Republic	<p>Czech Republic is compliant with Directive 2008/9/EC. However the following issues have been identified:</p> <p>Article 15</p> <ul style="list-style-type: none">• Article 15(2) has not been implemented into domestic law. This article concerns with Member State of Establishment sending the applicant an electronic	<p><u>Late payment interest</u></p> <p>In-country experts have identified that there are ongoing disputes regarding the amount of late payment interest that should be paid.</p> <p>The maximum deadline to make reimbursement payments in Czech law is 30 days and comments as to</p>



Member State	Refunds	Reimbursement
	<p>confirmation of receipt without delay.</p> <ul style="list-style-type: none">• Furthermore, the domestic law does not state that the application will be considered submitted if all requested information is provided.• However, this is not considered to have a material impact on taxpayer rights.	<p>delay are in relation to this timeline.</p>
Denmark	<p>Denmark is compliant with Directive 2008/9/EC. However the following issues have been identified:</p> <p><u>Article 3</u></p> <ul style="list-style-type: none">• The domestic law complies with Article 3 of the Directive. This concerns eligibility of taxpayers claiming a refund.• However, the conditions for eligibility are not provided in the same level of detail as the Directive. <p><u>Article 13</u></p> <ul style="list-style-type: none">• The domestic provisions do not provide as much detail as Article 13. This article concerns the process by which claimants can make a correction to the amount in a refund application.• However, this has no material impact on taxpayer rights in practice. <p><u>Article 15</u></p> <ul style="list-style-type: none">• Article 15(2) has not been implemented in domestic	<p>No issues were reported with regards to reimbursement claims Denmark.</p>



Member State	Refunds	Reimbursement
	<p>legislation. This article concerns with Member State of Establishment sending the applicant an electronic confirmation of receipt without delay.</p> <ul style="list-style-type: none"> This can result in issues for taxpayers when seeking to appeal a decision, as they are likely to not receive an electronic confirmation of receipt of application. <p>Article 26</p> <ul style="list-style-type: none"> Article 26 has not been implemented in domestic legislation. This concerns interest payment on claims paid outside deadline. However, this does not have any material impact on the rights of taxpayers as the right to receive interest is maintained. <p>Article 27(2)</p> <ul style="list-style-type: none"> Article 27 has not been implemented in domestic legislation. This concerns how interest shall be calculated. However, this does not have any material impact on the rights of taxpayers. 	
Estonia	<p>Estonia is compliant with Directive 2008/9/EC. However the following issues have been identified: :</p> <p>Article 3</p> <ul style="list-style-type: none"> Article 3(b) has not been implemented in domestic legislation. This Article concerns the eligibility of 	<p>No issues were reported with regards to reimbursement claims in Estonia.</p>



Member State	Refunds	Reimbursement
	<p>taxpayers claiming a refund.</p> <ul style="list-style-type: none">• However, the tax authority practice in Estonia is in line with Article 3. <p><u>Article 15</u></p> <ul style="list-style-type: none">• Article 15 has been implemented into domestic legislation. However, the following wording is not in the domestic legislation, "The application shall be considered submitted only if the applicant has filled in all the information required under Articles 8, 9 and 11."• However, published practice requires that this information is included before an application is considered submitted. <p><u>Article 23</u></p> <ul style="list-style-type: none">• Article 23(2) has not been implemented in domestic legislation. This article concerns the rights of taxpayers to appeal the tax authority's decision to reject a claim.• However, this right is provided for in published procedures. <p><u>Article 24</u></p> <ul style="list-style-type: none">• Article 24 has been implemented in domestic legislation however, adequate detail on its application is not provided. This article concerns the recovery of amounts refunded incorrectly or through claims that were deemed to be fraudulent.	



Member State	Refunds	Reimbursement
	<ul style="list-style-type: none">This is not considered to have any material impact as in practice, the tax authority provides information on how applications can be corrected.	
Finland	Finland is compliant with Directive 2008/9/EC.	No issues were reported with regards to reimbursement claims in Finland.
France	<p>France is compliant with Directive 2008/9/EC. However the following issues have been identified:</p> <p>Article 11</p> <ul style="list-style-type: none">Article 11 has not been implemented in domestic legislation. This article concerns the requirement for an applicant to provide a description of his business activity using the harmonised codes.However, this provision is discretionary. Furthermore, the tax authority practice complies with the Directive. <p>Article 12</p> <ul style="list-style-type: none">Article 12 has not been implemented in domestic legislation. This article sets out the requirement for the Member State of Refund to specify which language or languages shall be used by the applicant for the provision of information in the refund application or in responding to additional information requests.However, this provision is discretionary. Furthermore,	<p>Delays</p> <p>The tax authority tends to raise audits where VAT is claimed before the commencement of activity. There is also experience of audits being raised in periods following a claim, causing a duplication of work.</p> <p>The maximum deadline to make reimbursement payments in French law is 4 months and comments as to delay are in relation to this timeline.</p>



Member State	Refunds	Reimbursement
	<p>the tax authority practice complies with the Directive.</p> <p>Article 15</p> <ul style="list-style-type: none">• Article 15 has not been implemented in domestic legislation. This article concerns the deadline for submission of a refund application and the requirement for the Member State of Establishment to send the applicant an electronic confirmation of receipt without delay.• However, the tax authority practice is in line with the Directive.	
Germany	<p>Germany is non-compliant with Directive 2008/9/EC. The following issues have been identified:</p> <p>Article 13</p> <ul style="list-style-type: none">• Article 13 has not been implemented in domestic legislation. This article concerns the process to allowing claimants to make a correction to the amount in a refund application.• However, there is a general provision in the German Fiscal Code that allows applicants to correct errors in their application. <p>Article 25</p>	<p>No issues were reported with regards to reimbursement claims in Germany.</p>



Member State	Refunds	Reimbursement
	<ul style="list-style-type: none">Article 25 has not been implemented in domestic legislation. This article concerns the requirement for the Member State of refund to take into account as a decrease or increase of the amount of the refund any correction made concerning a previous refund application in accordance to Article 13. However, in practice, the authorities take into account a decrease or increase of the amount of the refund when any corrections are made to the application. <p><u>Article 16</u></p> <ul style="list-style-type: none">Article 16 has not been implemented in domestic legislation. This article concerns the duration of the refund periodHowever, the tax authority practice is in line with Article 16. <p><u>Article 19</u></p> <ul style="list-style-type: none">Article 19 has not been implemented in domestic legislation. This article concerns the requirement for the Member State of Refund to notify the applicant of the decision. However, in practice, the German tax authority does provide electronic confirmation of receipt of an application. <p><u>Article 20</u></p> <ul style="list-style-type: none">Article 20 has not been completely implemented in	



Member State	Refunds	Reimbursement
	<p>German domestic legislation. This article concerns how the Member State of Refund can request additional information.</p> <ul style="list-style-type: none">• The tax authority practice is also non-compliant, as some refund claims are automatically rejected by the tax authority if they are considered not to have adequate information, without a request for supporting information being made. <p><u>Article 21</u></p> <ul style="list-style-type: none">• Article 21 has not been implemented in domestic law. This article concerns deadlines for the Member State of Refund to process claims where additional information is requested. However, the requirements under Article 21 can be implied from the VAT Implementing Regulation regarding when interest is payable. <p><u>Article 22</u></p> <ul style="list-style-type: none">• Similarly, Article 22(1) has not been implemented in domestic legislation. This article concerns the deadline for the Member State of refund to pay when an application has been approved. However, this is implied from VAT Implementing Regulation• Article 22(2) has not been implemented in domestic legislation. This article concerns the requirement for the refund to be paid in the Member State of refund, or upon the applicant's request, in any other Member State.	



Member State	Refunds	Reimbursement
	<p><u>Article 23</u></p> <ul style="list-style-type: none">• Article 23 has not been implemented in domestic legislation. This concerns the requirement for Member State of refund to provide the grounds of refusal to applicants.• However, according to General Fiscal Rules, every administrative act/official decision of the tax authority with respect to tax matters should be substantiated to ensure that the taxpayer can properly understand it. <p><u>Article 24</u></p> <ul style="list-style-type: none">• Article 24 has not been implemented in domestic legislation. This article concerns the recovery of amounts refunded incorrectly or through claims that were deemed to be fraudulent.	
Greece	Greece is compliant with Directive 2008/9/EC.	<p><u>Delays</u></p> <p>There are often considerable delays in processing VAT reimbursement claims. It often takes over 6 months to receive a reimbursement and can take over a year.</p> <p>The maximum deadline to make reimbursement payments in Greek law is 4 months and comments as to delay are in relation to this timeline.</p>



Member State	Refunds	Reimbursement
Hungary	<p>Hungary is compliant with Directive 2008/9/EC. However the following issues have been identified:</p> <p><u>Article 7</u></p> <ul style="list-style-type: none"> Article 7 has not been implemented in domestic legislation. This article concerns the requirement for refunds to be submitted via a portal set up in the Member State of Establishment. The only requirement outlined in the legislation is that application should be in writing. However, in practice, electronic means are available and it is considered best practice to use these. 	<p><u>Delays</u></p> <p>There is experience of reimbursements being delayed due to audits being initiated.</p> <p>The time taken to carry out an audit does not count when determining whether the deadline has passed. Audits can therefore place taxpayers at financial risk.</p> <p>The maximum deadline to make reimbursement payments in Hungarian law is 75 days and comments as to delay are in relation to this timeline.</p>
Ireland	<p>Ireland is compliant with Directive 2008/9/EC.</p>	<p><u>Delays</u></p> <p>There is no time limit within domestic legislation for a reimbursement to be paid, which can cause issues for taxpayers.</p> <p>There are frequently delays which result from the tax authority requesting further documentation to support claims.</p>
Italy	<p>Italy is non-compliant with Directive 2008/9/EC.</p> <p>The following issues have been identified:</p>	<p>No issues were reported with regards to reimbursement claims in Italy.</p>



Member State	Refunds	Reimbursement
	<p><u>Article 14</u></p> <ul style="list-style-type: none">• Article 14 has not been implemented in domestic legislation. This article concerns goods and services that are eligible for refund.• However, in-house experts have advised that the VAT is refunded in accordance to Article 14. <p><u>Article 9</u></p> <ul style="list-style-type: none">• Article 9 has not been implemented in domestic legislation. This article concerns the nature of goods and services that are eligible for refund.• However, in-house experts have advised that the list is made available by tax authorities online.• Furthermore, in practice the nature of goods and services acquired have to be described by using the codes 1 to 10. <p><u>Article 10</u></p> <ul style="list-style-type: none">• Article 10 has not been implemented in domestic legislation. This concerns the situations where the Member State of Refund may request the applicant to submit electronic copies of invoices. However in-house experts have advised that as a general rule, invoices are not mandatory and only requested as additional information. <p><u>Article 11</u></p>	



Member State	Refunds	Reimbursement
	<ul style="list-style-type: none">• Article 11 has not been implemented in domestic legislation. This article concerns the requirement for the applicant to provide a description of his business activity using NACE v.2. Codes.• However, PwC experts have advised that tax authority may request a description of the applicant's business activity for which the goods and services are acquired via NACE v.2 codes. <p><u>Article 12</u></p> <ul style="list-style-type: none">• Article 12 has not been implemented in domestic legislation. This article concerns the requirement for requiring Member State of Refund to specify which language or languages that shall be used by the applicant for the provision of information in the refund application or additional information.• In house experts have advised that Italian is the main language but English is acceptable. In house experts also noted that it was recommended to reply in Italian to avoid misinterpretations. <p><u>Article 15</u></p> <ul style="list-style-type: none">• Article 15 has not been implemented in domestic legislation. This article concerns the deadline for submission of applications and the requirement for the Member State of Establishment to send the applicant an electronic confirmation of receipt without delay.	



Member State	Refunds	Reimbursement
	<p><u>Article 22</u></p> <ul style="list-style-type: none">• Article 22(2) has not been implemented in domestic legislation. This article concerns the requirement for the refund to be paid in the Member State of refund, or upon the applicant's request, in any other Member State.• However, as no issues relating to this have been highlighted by in-house experts, this is not considered to be an area of non-compliance. <p><u>Article 23</u></p> <ul style="list-style-type: none">• A general provision for appeals is provided in domestic law.• Article 23 has not been implemented in domestic legislation. This concerns the requirement for Member State of refund to provide the grounds of refusal to applicants.• Furthermore, in-house experts have not indicated that the grounds are provided in practice. This can limit the effectiveness of the right of appeal.	
Latvia	Latvia is non-compliant with Directive 2008/9/EC. The following issues have been identified: <u>Article 21</u>	No issues were reported with regards to reimbursement claims in Latvia.



Member State	Refunds	Reimbursement
	<ul style="list-style-type: none"> Article 21 has not been explicitly implemented into domestic law. This article concerns deadline for Member State of refund to process claims where additional information is requested. However, Article 21 is implemented in practice. <p>Article 23</p> <ul style="list-style-type: none"> Article 23 has not been implemented in domestic legislation. This article concerns the requirement for the Member State of Refund to provide the grounds of refusal to applicants. In addition, there is no mention from in-house experts that this is implemented in practice. 	
Lithuania	Lithuania is compliant with Directive 2008/9/EC.	<p>Delays</p> <p>There is experience of taxpayers carrying amounts forward instead of seeking repayment to avoid investigations and the associated delays.⁷</p>
Luxembourg	Luxembourg is compliant with Directive 2008/9/EC. However the following issues have been identified:	No issues were reported with regards to reimbursement claims in Luxembourg.

⁷ No issues concerning late interest payment were noted as following *Nidera (C-387/16)*, Article 87(9) of Lithuanian law on tax administration has been amended to ensure that if the tax authority fails to refund the tax overpayment within the statutory time limit, the rate of interest payable cannot be reduced.



Member State	Refunds	Reimbursement
	<p><u>Article 8</u></p> <ul style="list-style-type: none">• There is no domestic legislation providing applicants the right to correct an application.• However, this is allowed in practice. <p><u>Article 9</u></p> <ul style="list-style-type: none">• Article 9 has not been implemented in domestic legislation. This article concerns the nature of goods and services that are eligible for refund.• However, in-house experts have advised that in practice, the nature of the goods and services is acquired in accordance to the codes 1 to 10. Where requested, further information on the nature of the goods and services should be provided in accordance to the sub-codes of 1 to 10. <p><u>Article 10</u></p> <ul style="list-style-type: none">• Article 10 has not been implemented in domestic legislation. This article concerns where/when the Member State of Refund may request the applicant to submit electronic copies of invoices.• However, according to in-house experts, copies of invoices are requested at the time of submitting an application. In addition, the tax authority can also request additional information. <p><u>Article 11</u></p>	



Member State	Refunds	Reimbursement
	<ul style="list-style-type: none">• Article 11 is not implemented in domestic legislation. This article concerns the requirement for the applicant to provide a description of his business activity using NACE v.2. Codes.• However, according to in-house experts, when making an application, the description of the applicant's business activities for which the goods and services are acquired is to be provided using the NACE V.2 codes. <p><u>Article 12</u></p> <ul style="list-style-type: none">• Article 12 has not been implemented into domestic legislation. This article concerns the requirement for the Member State of Refund to specify which language or languages shall be used by the applicant for the provision of information in the refund application or additional information.• According to in-house experts, in practice, communication between the applicant and tax authority is carried out in French or German as chosen by the applicant. Applications and communications to the authority can also be made in English. <p><u>Article 16</u></p> <ul style="list-style-type: none">• Article 16 has not been implemented in domestic legislation. This article concerns the duration of refund period.• However, in-house experts have advised that in practice, the refund period can vary from at least three	



Member State	Refunds	Reimbursement
	<p>months to up-to a maximum of a calendar period. Alternatively, the refund period can also cover period constituting the remainder of the calendar year.</p> <p>Article 17</p> <ul style="list-style-type: none"> • Article 17 is not implemented in domestic legislation. This article concerns the duration of refund period. • However, according to in-house experts, in practice, the refund period is between 3 months and less than a year, the minimum refund amount is 400 EUR or the equivalent in the country's national currency. If the refund period is the calendar year or the last period of a calendar year, the minimum refund amount is 50 EUR. 	
Malta	Malta is compliant with Directive 2008/9/EC.	No issues were reported with regards to reimbursement claims in Malta.
Netherlands	<p>Netherlands is non-compliant with Directive 2008/9/EC.</p> <p>The following issues have been identified: :</p> <p>Article 23</p> <ul style="list-style-type: none"> • The right to appeal has been provided for in domestic legislation. • However, Article 23 has not been implemented in domestic legislation. This article concerns the 	No issues were reported with regards to reimbursement claims in Netherlands.



Member State	Refunds	Reimbursement
	<p>requirement for Member State of refund to provide the grounds of refusal to applicants. Therefore, taxpayers are not provided with grounds for refusal of an application.</p> <p>Article 27</p> <ul style="list-style-type: none">• Article 27(2) has not been implemented in domestic legislation. This concerns how interest shall be calculated. However, in practice, tax authorities apply interest in line with the terms of the Directive.	
Poland	<p>Poland is non-compliant with Directive 2008/9/EC.</p> <p>The following issues have been identified:</p> <p>Article 13</p> <ul style="list-style-type: none">• According to Polish rules, correction to application can be made in the current or previous period. This is slightly inconsistent with Article 13. <p>Article 23</p> <ul style="list-style-type: none">• The right to appeal has been provided for in domestic legislation.• However, Article 23 has not been implemented in domestic legislation. This article concerns the requirement for Member State of refund to provide the grounds of refusal to applicants. Therefore, taxpayers	<p>No issues were reported with regards to reimbursement claims in Poland.</p>



Member State	Refunds	Reimbursement
	<p>are not provided with grounds for refusal of an application.</p>	
<p>Portugal</p>	<p>Portugal is non-compliant with Directive 2008/9/EC.</p> <p>The following issues have been identified: :</p> <p>Article 25</p> <ul style="list-style-type: none"> Article 25 has not been implemented in domestic legislation. This article concerns the requirement for the Member State of Refund to take into account as a decrease or increase of the amount of the refund any correction made concerning a previous refund application in accordance to Article 13. Thus, the Portuguese tax authority does not take into account a decrease or increase of the amount of the refund when any corrections are made to the application. <p>Article 19</p> <ul style="list-style-type: none"> Article 19 has not been implemented in domestic legislation. This article concerns the requirement for the Member State of refund to notify the applicant without delay, by electronic means of the date on which the application is received. Although, in practice, the tax authority does notify the 	<p>Delays</p> <p>There is potential for discrepancies between VAT returns and accounting data to cause issues in later periods.</p> <p>The maximum deadline to make reimbursement payments in Portuguese law is 3 months and comments as to delay are in relation to this timeline.</p> <p>Conditions for reimbursement</p> <p>The requisite guarantee amount in Portugal is the VAT amount and 25%, which has the potential to be excessive and cause issues for taxpayers.</p> <p>Late payment interest</p> <p>The calculation of late interest payment on delayed claims stops at the point when a note is issued by the tax authority confirming that payment is to be made, despite the fact that payment itself might not be made</p>



Member State	Refunds	Reimbursement
	taxpayer when an application is received.	for several days after the note is issued.
Romania	<p>Romania is non-compliant with Directive 2008/9/EC.</p> <p>The following issues have been identified:</p> <p><u>Article 19</u></p> <ul style="list-style-type: none">• Article 19 has not been implemented in domestic legislation. This article concerns the requirement for the Member State of refund to notify the applicant of the decision without delay.• However, in practice, the Romanian tax authority ensures all communication (except from the application itself) is performed by the Member State of Refund. <p><u>Article 21 and 22</u></p> <ul style="list-style-type: none">• Article 21 and 22 have been implemented in domestic legislation. These articles concerns the timing of notifying the applicant of the decision and of making a payment in accordance to the decision.• However, according to in-country experts, there are issues in practice with the timing of the payment being made and how burdensome the process is for taxpayers. This can create significant potential issues for taxpayers. <p><u>Article 26</u></p>	<p><u>Delays</u></p> <p>Romanian tax authorities often fail to refund claims in a timely manner. Audits by tax authorities are also a cause of delays.</p> <p>The maximum deadline to make reimbursement payments in Romanian law is 90 days and comments as to delay are in relation to this timeline.</p> <p><u>Late payment interest</u></p> <p>Late payment interest is not granted automatically and taxpayers must instead make a specific request. These claims are usually rejected and litigation becomes necessary, at which point the claims are usually approved. This nevertheless involves additional time and cost to the taxpayer.</p>



Member State	Refunds	Reimbursement
	<ul style="list-style-type: none"> Article 26(2) has not been implemented in domestic legislation. This concerns interest payment on claims paid outside deadline. Furthermore, in-house experts have noted that interest is not granted automatically in Romania. Applicants are required to request this from tax authorities who usually reserve the right to reject such claims. These claims then end up in court. Although, interest claims are usually approved by the court, the entire procedure is very burdensome for taxpayers. 	
Slovakia	<p>Slovakia is compliant with Directive 2008/9/EC. However the following issues have been identified:</p> <p><u>Article 9</u></p> <ul style="list-style-type: none"> Article 9 has not been implemented in domestic legislation. This article concerns regarding the nature of goods and services that are eligible for refund. However, this provision is discretionary. <p><u>Article 15</u></p> <ul style="list-style-type: none"> Article 15 has been implemented into domestic legislation. However, the following wording is not in the domestic legislation, "The application shall be considered submitted only if the applicant has filled in all the information required under Articles 8, 9 and 11." 	<p><u>Conditions for reimbursement</u></p> <p>Taxpayers are obliged to file a Control Statement which is a detailed report listing invoices related to particular taxable transactions (including those from which taxpayers are claiming input VAT via VAT return). This could cause issues for some taxpayers, as it places an additional burden in the way of securing a reimbursement.</p> <p><u>Late payment interest</u></p> <p>The right to late payment interest only arises if the tax authorities perform an audit and reimbursement is delayed by more than six months.</p>



Member State	Refunds	Reimbursement
	<ul style="list-style-type: none"> In-house experts have advised that in practice, the application is only considered as submitted if the applicant has filled in all the required information. 	<p>The maximum deadline to make reimbursement payments in Slovakian law is 30 days and comments as to delay are in relation to this timeline.</p>
Slovenia	<p>Slovenia is compliant with Directive 2008/9/EC.</p>	<p>No issues were reported with regards to reimbursement claims in Slovenia.</p>
Spain	<p>Spain is non-compliant with Directive 2008/9/EC.</p> <p>The following issues have been identified: :</p> <p>Article 25</p> <ul style="list-style-type: none"> Article 25 has not been implemented in domestic legislation. This article concerns the requirement for the Member State of refund to take into account as a decrease or increase of the amount of the refund any correction made concerning a previous refund application in accordance to Article 13. Thus, the Spanish tax authority does not take into account a decrease or increase of the amount of the refund when any corrections are made to the application. <p>Article 15</p> <ul style="list-style-type: none"> Article 15 has been implemented in domestic 	<p>Delays</p> <p>The procedure for reimbursement creates a financial risk for the taxpayer in that, in accordance with Article 115 of the VAT Law No 37/1992, the VAT to be reimbursed is carried forward during the year and is not reimbursed until the first six months of the following calendar year.</p> <p>The maximum deadline to make reimbursement payments in Spanish law is 6 months and comments as to delay are in relation to this timeline.</p> <p>Conditions for reimbursement</p> <p>The situations when a guarantee may be payable are not explicitly set out by the tax authorities and this creates uncertainty and potential risk.</p>



Member State	Refunds	Reimbursement
	<p>legislation,</p> <ul style="list-style-type: none">• However, Article 15(2) has not been implemented in domestic legislation. This article concerns with Member State of Establishment sending the applicant an electronic confirmation of receipt without delay.• This can create potential issues for taxpayers if there are disputes regarding whether an application was received or not. <p><u>Article 22</u></p> <ul style="list-style-type: none">• Article 22(2) has not been implemented in domestic legislation. This article concerns the requirement for the refund to be paid in the Member State of refund, or upon the applicant's request, in any other Member State.• However, there is merely an expectation the refund is paid to the designated account. <p><u>Article 23</u></p> <ul style="list-style-type: none">• A general provision for appeals is provided in domestic law.• However, Article 23(1) has not been implemented in domestic legislation. This article concerns the rights of taxpayer to appeal the tax authority's decision to reject a claim.• There is also no indication that tax authority practice is in line with the Article. Therefore, taxpayers are not provided with grounds for refusal of an application.	



Member State	Refunds	Reimbursement
Sweden	Sweden is compliant with Directive 2008/9/EC.	No issues were reported with regards to reimbursement claims in Sweden.
United Kingdom	<p>United Kingdom is compliant with Directive 2008/9/EC. However the following issues have been identified:</p> <p>Article 25</p> <ul style="list-style-type: none">• The domestic provisions do not indicate what the UK tax authorities would do in the case of an increase in any refund.• It is also not clear how any underpaid amount would be recovered if not via an adjustment to the next application for a refund. <p>Article 24</p> <ul style="list-style-type: none">• The domestic provisions do not allow the UK tax authorities to seek payment from a person who is not a taxable person in the UK. <p>Article 27</p> <ul style="list-style-type: none">• Article 27 has not been implemented in domestic legislation. This article concerns the rate of interest paid to claimants in respect of late payment of	<p><u>Late payment interest</u></p> <p>Reimbursements must be paid within 30 days or a supplement of 5% is payable following conclusion of reasonable enquiries (s.79(3) and (4) of the Value Added Tax Act 1994). The tax authority can be intransigent on raising "reasonable enquiries" in order to stop the clock ticking on the payment of interest.</p> <p>The maximum deadline to make reimbursement payments in UK law is 30 days and comments as to delay are in relation to this timeline.</p>



Member State	Refunds	Reimbursement
	<p>refunds.</p> <ul style="list-style-type: none">• According to UK regulations, interest is to be paid up to the day HMRC authorises payment. This appears to be non-compliant on the literal wording of the Regulation as in practice the actual payment may not reach the applicant until much later than the date authorised for payment.• However, according to the published guidance in VAT Notice 723A does state that interest will run from the date payment was due until the date it is made.	



Annex 3: Anecdotal evidence on practical reality of claiming a VAT refund

Member State	Legal and administrative compliance assessment	Issues experienced by businesses	Comments
Austria	Compliant	Travel expenses, documentary evidence, portal issues	Austria is compliant with the EU law in relation to cross-border VAT. However, anecdotal evidence collected from IVA indicates that additional information and document requests have become increasingly common and complex in nature. Businesses might be dissuaded from even making an application in the first place given the time and financial costs associated with responding to the additional information requests. Additionally, in order to obtain a refund of VAT, the Austrian Tax Authority requires local VAT advisors to upload a request to the Austrian electronic portal. However, the portal itself does not allow applicants outside Austria to make a request via the portal, which creates an obstacle to businesses claiming a refund.
Belgium	Compliant	No issues reported	Belgium is compliant with the EU law in relation to cross border VAT refunds. Furthermore, no issues were reported by businesses.
Bulgaria	Compliant	Travel expenses	Bulgaria is compliant with the EU law in relation to cross-border VAT refunds. However, anecdotal evidence from the IVA shows that the Bulgarian Tax Authority frequently makes additional information requests in respect of claims that are considered as entertainment or representation expenses. There is also a lack of clarity among businesses as to what kind of document needs to be submitted in response to requests of this nature.



Member State	Legal and administrative compliance assessment	Issues experienced by businesses	Comments
Croatia	Compliant	Documentary evidence	Croatia is compliant with the EU law in relation to the cross-border VAT refunds. However, anecdotal evidence from the IVA indicates that the number of documents required is not considered proportionate to the nature or size of the claim. Originals of receipt, proof of payment and explanations regarding the purpose of each receipt are examples of documents that have been requested. The IVA also indicated that applications for refund are seldom approved.
Cyprus	Compliant	No issues reported	Cyprus is compliant with the EU law in relation to cross-border VAT refunds and businesses have not reported any issues.
Czech Republic	Compliant	Language barriers, travel expenses, documentary evidence	Czech Republic is compliant with the EU law in relation to cross-border VAT refunds. However, anecdotal evidence collected from the IVA captures a number of issues that businesses experience when making a claim. Tax authorities require both the initial refund application and additional requests from companies to be in the local language, with English not being sufficient. This creates an additional administrative burden. With regards to travel expenses, they require proof that the expenses were made by employees for business purposes.
Denmark	Compliant	Documentary evidence, filing process	Denmark is compliant with the EU law in relation to cross-border VAT refunds. However, anecdotal evidence from the IVA suggests that businesses are unclear as to the rules concerning the criteria for documentary evidence. Scanned invoices are not officially required yet they are frequently asked for by Danish Tax Authority. Additionally, anecdotal evidence suggests that the Danish Tax Authority does not allow claimants to correct invoices after the filing deadline.
Estonia	Compliant	Portal issues, language barriers, interest	Estonia is compliant with the EU law in relation to cross-border VAT. However, anecdotal evidence collected from the IVA captures a number of issues that businesses experience when making a claim. Estonia only grants portal access to individuals wishing to make a claim, thus barring companies/agents from applying for a refund. With regard to language barriers, the Estonian Tax Authority requires



Member State	Legal and administrative compliance assessment	Issues experienced by businesses	Comments
			all communication from companies to be in the local language, with English not being sufficient. The Estonian Tax Authority is also inconsistent with its payment of interest on late payments on refunds, with interest payments not always being provided.
Finland	Compliant	Portal issues, documentary evidence	Finland is compliant with the EU law in relation to cross-border VAT. However, anecdotal evidence from the IVA shows that enquiries made by the Finnish Tax Authority are sent as unique links without the possibility of seeing the contents of the link and the requests can only be dealt with on the computer that the link was originally sent to. Additionally, Finland only grants portal access to individuals wishing to make a claim, thus barring companies/agents from applying for a refund.
France	Compliant	Communication with tax administration	France is compliant with the EU law in relation to cross-border VAT refunds. However, anecdotal evidence collected from IVA indicates that the French Tax Authority does not send confirmation of approved refund claims to agents. This results in a communication gap where agents are not aware of the outcome of the claims.
Germany	Non-compliance with Article 24 of Directive 2008/9/EC, concerning penalties and late payment interest	Documentary evidence, language barriers, filing process,	Germany is non-compliant with Article 24 as the procedure for recovering amounts paid because of a fraudulent claim is not in the domestic legislation, nor has a consistent process been identified as a matter of tax authority practice. However, evidence collected from IVA indicates that there are extensive formal and complex requirements in place in relation to submitting documentary evidence. For example, it is not possible to resubmit an invoice even when the Directive deadline has not expired. The claimant must file an appeal in order to do so. Furthermore, if scanned copies of invoices are not submitted by 30 th September the invoice is rejected. It is also not possible to submit claims twice in a year. This means that if a claim was submitted in December, another claim cannot be submitted in September. With regard to language barriers, the German



Member State	Legal and administrative compliance assessment	Issues experienced by businesses	Comments
			Tax Authority requires all communication from companies to be in the local language, with English not being sufficient. This creates an additional administrative burden.
Greece	Compliant	Portal issues	Greece is compliant with EU law in relation to cross-border VAT refunds. However, evidence gathered from the IVA suggests that the Greek Tax Authority uses another external system for logging claims to the portal which requires manual listing of all invoices. This extra layer of administration may further delay the process and increase the associated costs for businesses.
Hungary	Compliant	Documentary evidence, portal issues	Hungary is compliant with the EU law in relation to cross-border VAT refunds. However, evidence collected from IVA indicates that there are unclear rules from the Hungarian Tax Authority in relation to additional information requests. For example, there is a lack of clarity on the format in which invoices should be submitted.
Ireland	Compliant	Travel expenses	Ireland is compliant with the EU law in relation to cross-border VAT refunds. However, evidence collected from IVA indicates that the Irish Tax Authority typically rejects invoices relating to organisation of a workshop for business purposes as they consider this to be entertainment.
Italy	Non-compliance with Article 23(1) of Directive 2008/9/EC, concerning time limits	Communication with tax administration, interest, delays, filing process	Italy is non-compliant with Article 23 (1) of Directive 2008/9/EC as there is no requirement within domestic legislation or published guidance for the Tax Authority to provide reasons for rejection. Furthermore, evidence collected from IVA indicates that there are issues in relation to communication. For example, the Italian Tax Authority sends a standardised document as a decision for all applications with no reference to the company making the claim. This may become burdensome for agents who then need to work out which business the decision relates to. The Italian Tax Authority also requires identity documents for individuals signing declarations in relation to VAT refunds in Italy. This is an



Member State	Legal and administrative compliance assessment	Issues experienced by businesses	Comments
			administrative burden for agents, as clients often do not provide this information given its confidential nature. This might dissuade claimants from submitting an application in the first place. Additionally there have been issues relating to delays of more than four months for a decision by the Italian Tax Authority, interest not being paid by the Italian Tax Authority on late payment of a refund, and claims being rejected on the basis that the VAT registration number has been left off the claimant's invoices.
Latvia	Non-compliance with Article 23(1) of Directive 2008/9/EC, concerning time limits	No issues reported	Latvia is non-compliant with Article 23 (1) of Directive 2008/9/EC as there is no requirement within domestic legislation or published guidance for the Tax Authority to provide reasons for rejection. However, no issues concerning cross-border VAT refund applications were submitted by businesses.
Lithuania	Compliant	Communication with tax administration, portals	Lithuania is compliant with EU law in relation to cross-border VAT refunds. However, evidence collected from the IVA indicates that the Lithuanian Tax Authority approves claims in an inconsistent manner, and do not always communicate with claimants the reasons for the rejection of a claim. Furthermore, when submitting a claim, the portal gives error notices without directing the claimant to the field where there is an error.
Luxembourg	Compliant	No issues reported	Luxembourg is compliant with EU law in relation to cross-border VAT refunds. No issues regarding cross-border VAT refund applications were submitted by businesses
Malta	Compliant	No issues reported	Malta is compliant with the EU law in relation to cross-border VAT refunds. No issues regarding cross-border VAT refund applications were submitted by businesses.



Member State	Legal and administrative compliance assessment	Issues experienced by businesses	Comments
Netherlands	Non-compliance with Article 23(1) of Directive 2008/9/EC, concerning time limits	Communication with tax authorities, portal issues, interest	Netherlands is non-compliant with Article 23 (1) of Directive 2008/9/EC as there is no requirement within domestic legislation or published guidance for the Tax Authority to provide reasons for rejection. Evidence collected from IVA indicates that the Dutch Tax Authority does not communicate effectively with claimants. In particular, there are instances where they do not send out their decisions, or confirmation of receipt of MSREF. When decisions are sent, the reasons for rejection are not made clear. Furthermore, they do not respond to information requests. Lack of effective communication makes the process of submitting an application burdensome for the claimant. Additionally, it has been reported that the Dutch Tax Authority may not pay interest on late refund payments.
Poland	Non-compliance with Article 23(1) of Directive 2008/9/EC, concerning time limits	Language barriers, communication with tax administration, payment, portal issues,	Poland is non-compliant with Article 23 (1) of Directive 2008/9/EC as there is no requirement within domestic legislation or published guidance for the Tax Authority to provide reasons for rejection. Furthermore, evidence collected from IVA indicates that businesses experience issues relating to additional information requests. For instance, instead of sending all additional information requests together, Polish tax authorities often make several requests per application over a period of time. The deadlines for responding to these requests are within a short timeframe (for example, 7 days) and it is often not always possible to meet them. The Tax Authority often makes requests over phone calls instead of sending out official requests in writing. These issues often result in additional administrative costs to claimants. In addition, IVA also mentioned language related issues. The Polish Tax Authority requires trade register extracts to be translated by a certified translator for each submission. For small VAT refund claims, the cost of translation is higher than the refund amount. This creates an additional administrative burden, which might dissuade claimants from submitting applications in the first place. Furthermore, the evidence gathered from the IVA showed that claims are being rejected by the Polish Tax Authority on the basis that the VAT registration number has been left off the claimant's invoices. Additionally Poland only grants portal access to individuals wishing to make a claim, and not companies/agents,



Member State	Legal and administrative compliance assessment	Issues experienced by businesses	Comments
			thus barring companies/agents from applying for a refund. Lastly, businesses have mentioned that no interest is paid on claims paid outside the Article 19 deadline.
Portugal	Non-compliance with Article 25 of Directive 2008/9/EC, concerning the amount refundable	Delays, portal issues, payment	Portugal is non-compliant with Article 25 as there is no provision in the domestic legislation for corrections to previous claims to be taken into account, nor has a process been identified as a matter of tax authority practice. Furthermore, IVA has observed that in the case of accepted appeals, there are delays in VAT refunds, and claims are being rejected by the Portuguese Tax Authority on the basis that the VAT registration number has been left off the claimant's invoices. Furthermore, there are instances where the Portuguese Tax Authority does not send out confirmation of receipt of MSREF via the portal.
Romania	Non-compliance with Article 26 of Directive 2008/9/EC, concerning penalties and late payment interest	Language barriers, documentary evidence, delays, portal issues	Romania is non-compliant with Article 26 (2) and, as a result, claims for interest are often rejected. Anecdotal evidence collected from the IVA has shown that while there are few document requirements when submitting a claim, the Romanian Tax Authority makes a number of additional information requests. It is often difficult to obtain this information within the timeframe of thirty days. The IVA also observed that the Romanian Tax Authority often rejects claims without clearly communicating the reasons with the claimant. Some of the reasons mentioned were the signature on the power of attorney was not right and the person who signed the appeal does not appear as the power of attorney. In addition, language issues in submitting applications and responses add to the administrative burden of making a claim. This creates an additional administrative burden despite, in some instances, it being legally acceptable for the Member State to require applications in their official language. IVA also recorded delays in payment of refunds, and non-payment of interest on late payments of the refund. Lastly, businesses have reported numerous issues with regards to the portal when submitting a claim, adding to the administrative cost of applying for a VAT refund.



Member State	Legal and administrative compliance assessment	Issues experienced by businesses	Comments
Slovakia	Compliant	Communication with tax administration	Slovakia is compliant with the EU law in relation to cross-border VAT refunds. However, Anecdotal evidence from the IVA also observed that although tax offices indicate their e-mail address on decisions and information requests, they do not respond to requests submitted via email. As a result, there is no scope for communication with the Slovakian Tax Authority via email. Furthermore, businesses only have 15 days to appeal a decision by the Slovakian Tax Authority, which is an unusually short timeframe and may prevent some businesses from appealing.
Slovenia	Compliant	No issues reported	Slovenia is compliant with EU law in relation to cross-border VAT refunds. Furthermore, no issues were reported by businesses.
Spain	Non-compliance with Article 25 and Article 23(1) of Directive 2008/9/EC, concerning amount refundable and time limits	Documentary evidence, communication with tax administration, delays, payment	Spain is non-compliant with Article 25 as there is no provision in place for correction to previous claims and Article 23(1) as there is no requirement within the domestic legislation for tax authorities to provide reasons for rejection of a claim. Furthermore, anecdotal evidence collected from IVA indicates that there are instances of the Spanish Tax Authority making decisions on claims in an inconsistent manner. For example, claims on courses and conferences for business purposes are inconsistently approved or denied. In addition, businesses have reported that it is difficult to get a response from the Spanish Tax Authority, on information requests. It was also noted that delays of more than four months have been recorded before a decision has been received from the Tax Authority. Lastly, evidence gathered from the IVA suggests that the Spanish Tax Authority uses another external system for logging claims to the portal, which requires manual listing of all invoices.
Sweden	Compliant	Documentary evidence, penalty regime, portal	Sweden is compliant with EU law relating to cross-border VAT refunds. However, anecdotal evidence collected from the IVA indicates that the extent of information requested on applications is often disproportionate to the amount being claimed. In addition, the Swedish Tax Authority is starting to take a stricter approach in



Member State	Legal and administrative compliance assessment	Issues experienced by businesses	Comments
		issues	processing claims. For instance, they are applying penalties for involuntary mistakes made in the claims. Lastly, evidence from the IVA suggests that the Swedish portal often malfunctions, preventing the submission of a claim.
United Kingdom	Compliant	Travel expenses, documentary evidence, penalty regime, portal issues, delays	The United Kingdom is compliant with the EU law relating to cross-border VAT refunds. However, anecdotal evidence collected from IVA indicates that the UK Tax Authority makes unnecessary requests for information with regard to claims. This may include traveller's expense reports, proof of meetings held, etc. These requests create a significant administrative burden for the claimant. Furthermore, the UK Tax Authority may sometimes delay their decision by more than four months, and penalty letters are issued with every rejection. This might dissuade businesses from submitting a claim from the outset.