

V

(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Action brought on 19 January 2015 — European Commission v Kingdom of the Netherlands**(Case C-22/15)**

(2015/C 228/02)

*Language of the case: Dutch***Parties***Applicant:* European Commission (represented by: L. Lozano Palacios and G. Wils acting as Agents)*Defendant:* Kingdom of the Netherlands**Form of order sought**

The Commission claims that the Court should:

- find that by granting the value-added-tax exemption for the hiring of quays and moorings to the members of water sports associations not employing one or more persons for the provision of their services, in respect of sailing or leisure activities which cannot be equated with the practice of sport or physical education, the Kingdom of the Netherlands has failed to fulfil its obligations under Articles 2(1), 24(1) and 133 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ('the VAT Directive') ⁽¹⁾, in conjunction with Article 132(1)(m) thereof;
- find that in limiting the VAT exemption for hiring to water sports associations not employing one or more persons, when the quays and moorings are hired to members taking part in a sport and the hiring is closely linked to and essential for the practice of that sport, the Kingdom of the Netherlands has failed to fulfil its obligations under Articles 2(1), 24(1) and 133 of Directive 2006/112/EC in conjunction with Article 132(1)(m) thereof;
- order the Kingdom of the Netherlands to pay the costs.

Pleas in law and main arguments

1. Directive 2006/112/EC requires the Member States to exempt the supply of certain services closely linked to sport or physical education by non-profit-making organisations to persons taking part in sport or physical education.
2. Article 11(1)(e) of the 1968 Netherlands Law on Turnover Tax exempts from VAT the provision of services by sports associations to their members, with the exception of the services provided by water sports associations which, in order to provide their services, have recourse to one or more persons employed by them, in so far as those services consist in the carrying out, with the help of those persons, of activities in relation to vessels or in the provision of quays and moorings.

3. The Commission contends that the Netherlands exemption is both too broad and too narrow.
4. First of all, the Commission takes issue with the fact that the VAT exemption is not limited to the hiring of quays and moorings to members of non-profit-making organisations taking part in sport, but also extends to the hiring of quays and moorings to the members of associations which, whether on a purely recreational or perhaps even residential basis, use the vessel located in the hired quay or mooring, without leaving the location. The exemption is to that extent contrary to Articles 2(1), 24(1) and 133 of the VAT Directive.
5. In addition, the Commission takes issue with the fact that, in order to benefit from the exemption, the associations in question must not have any employees. The Netherlands thereby adds a condition that goes beyond what is permitted by Article 133 of the VAT Directive (in conjunction with Article 132(1)(m) thereof).

⁽¹⁾ OJ 2006 L 347, p. 1.

**Request for a preliminary ruling from the Juzgado de lo Mercantil No 1 de Granada (Spain) lodged on
1 April 2015 — Francisco Gutiérrez Naranjo v BBK Bank Cajasur, S.A.U.**

(Case C-154/15)

(2015/C 228/03)

Language of the case: Spanish

Referring court

Juzgado de lo Mercantil No 1 de Granada

Parties to the main proceedings

Applicant: Francisco Gutiérrez Naranjo

Defendant: BBK Bank Cajasur, S.A.U.

Questions referred

- 1) In such cases, is an interpretation according to which an unfair term declared void nonetheless produces effects until that declaration is made compatible with the interpretation of 'non-binding' in Article 6(1) of Directive 93/13/EEC ⁽¹⁾? Therefore, even though the term has been declared void, will the effects produced by that term while it was in force be considered not to be invalidated or ineffective?
- 2) Is an injunction that may be issued to desist from using a particular term (in accordance with Articles 6(1) and 7(1)) in an individual action brought by a consumer when such a declaration is made compatible with a limitation of the effects of a declaration of nullity? May (the courts) alter the reimbursement of any sums paid by the consumer — which the seller or supplier is obliged to reimburse — under the term subsequently declared void *ex tunc*, for want of information and/or of transparency?

⁽¹⁾ Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts. OJ 1993 L 95, p. 29.