

— to publish and to submit to the public, including users, for comment the envisaged river basin district management plans, and

— to send the European Commission the copies of those plans,

has failed to fulfil its obligations under, respectively, Article 13(6) of Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy, read in conjunction with Article 13(1) and (2), Article 14(1)(c) and Article 15(1) of that directive;

2. Orders the Portuguese Republic to pay the costs.

(<sup>1</sup>) OJ C 211, 16.7.2011.

**Judgment of the Court (Fifth Chamber) of 21 June 2012 (reference for a preliminary ruling from the Corte suprema di cassazione — Italy) — Ministero dell'Economia e delle Finanze, Agenzia delle Entrate v Elsacom NV**

(Case C-294/11) (<sup>1</sup>)

**(Eighth VAT Directive — Arrangements for the refund of VAT to taxable persons not established in the territory of the country — Time-limit within which refund applications are to be submitted — Time bar)**

(2012/C 250/13)

Language of the case: Italian

#### Referring court

Corte suprema di cassazione

#### Parties to the main proceedings

*Applicants:* Ministero dell'Economia e delle Finanze, Agenzia delle Entrate

*Defendant:* Elsacom NV

#### Re:

Reference for a preliminary ruling — Corte suprema di Cassazione — Interpretation of Article 7(1) of Eighth Council Directive 79/1072/EEC 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 (OJ 1979 L 331, p. 11) — Period of six months from the end of the calendar year in which value added tax became chargeable within which to submit an application for refund of that tax — The legal significance of the period laid down by the directive

#### Operative part of the judgment

The six-month time limit laid down in the last sentence of the first subparagraph of Article 7(1) of Eighth Council Directive

79/1072/EC of 6 December 1979 on the harmonization 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 — for submitting an application for a value added tax refund is a mandatory time limit.

(<sup>1</sup>) OJ C 252, 27.8.2011.

**Reference for a preliminary ruling from the Rechtbank Amsterdam (Netherlands) lodged on 14 May 2012 — Koninklijke Luchtvaart Maatschappij NV, TUI Airlines Nederland BV, handelend onder de naam ArkeFly v Staatssecretaris van Infrastructuur en Milieu**

(Case C-227/12)

(2012/C 250/14)

Language of the case: Dutch

#### Referring court

Rechtbank Amsterdam

#### Parties to the main proceedings

*Applicants:* Koninklijke Luchtvaart Maatschappij N.V., TUI Airlines Nederland B.V., handelend onder de naam ArkeFly

*Defendants:* Staatssecretaris van Infrastructuur en Milieu

#### Questions referred

- Should Articles 7 and 16 of the Regulation, (<sup>1</sup>) together with the principle of Union loyalty, be interpreted in such a way that those Articles (in conjunction with national law) create for an administrative authority like the defendant the competence or the obligation to take enforcement action in respect of air carriers where they have failed to pay passengers compensation for delays, even where those passengers themselves have recourse to the courts in that regard, as laid down in Article 33 of the Montreal Convention? (<sup>2</sup>)
- If the previous question is answered in the affirmative, does the imposition of administrative orders for periodic penalty payments such as those at issue here also form part of the possibility of enforcement?
- Does it make any difference in that regard whether:
  - the air carriers have drawn passengers' attention to those rights?
  - in the case of an alleged lack of compliance with Article 14 of the Regulation, an order for periodic penalty payments imposed on the air carriers was preceded by the imposition of a sanction due to non compliance with that Article?