

In addition the contested decision contains an inadequate statement of reasons and therefore infringes Article 253 EC.

Finally, the contested decision infringes the Community principle of the protection of legitimate expectations.

(¹) Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (OJ L 275, 2003, p. 32).

Action brought on 9 February 2007 — Lactalis Gestion Lait and Lactalis Investissements v Council

(Case T-29/07)

(2007/C 69/56)

Language of the case: French

Parties

Applicants: Lactalis Gestion Lait and Lactalis Investissements (Laval, France) (represented by: A. Philippart, lawyer)

Defendant: Council of the European Union

Form of order sought

- rule that the first subparagraph of Article 1 of Council Directive 67/227/EEC, read in the light of the fourth recital in the preamble, requires the Member States to abolish and replace cumulative multi-stage turnover taxes which distort competition and hinder trade between Member States;
- rule that subparagraph 3 of Article 1 of Directive 67/227/EEC, read in the light of the eighth recital in the preamble, prohibits Member States (old or new) from maintaining or introducing measure providing for flat-rate equalisation of turnover taxes on importation or exportation in trade between Member States;
- rule that Article 1 of First Directive 67/227/EEC replaces cumulative multi-stage taxes with the common system of value added tax and that henceforward the maintenance or introduction of cumulative multi-stage taxes which distort competition and hinder trade must be prohibited;

— rule that contrary to the objective that it set, Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, by repealing First Directive 67/227/EEC, gives, with the exception of Article 2 defining the characteristics of VAT, an incomplete and incorrect image of the existing VAT legislation and jeopardises the harmonisation of laws on turnover tax;

— rule that by removing all references to the principle of principle of the prohibition on cumulative multi-stage taxes and thereby enabling the maintenance and reintroduction of turnover taxes of such a kind as to distort competition and hinder trade between Member States, the Council infringes the objectives set by Articles 3 and 93 EC and directly and individually affects the applicants' interests;

— annul Article 411/1 of Directive 2006/112/EC in so far as it repeals recitals 4 and 8 and subparagraphs 1 and 3 of Article 1 of Council Directive 67/227/EEC and clearly infringes Articles 3 and 93 EC;

— order the Council to reimburse the irrecoverable expenses incurred in these proceedings

Pleas in law and main arguments

By this action, the applicants seek annulment of Article 411/1 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (¹) in so far as it repeals subparagraphs 1 and 3 of Article 1 of First Council Directive 67/227/EEC of 11 April 1967 on the harmonisation of legislation of Member States concerning turnover taxes (²) providing for the abolition and prohibiting the maintenance or introduction of cumulative multi-stage taxes.

The applicants claim that by adopting such a directive, the Council infringes the objectives of the Treaty set out in Articles 3 and 93 EC which provide for the harmonisation of laws on turnover taxes. The applicants also submit that the repeal of Directive 67/227/EEC by Directive 2006/112/EC calls into question the principle of the prohibition on cumulative multi-stage taxes which the applicants argue are, by their very nature, of such a kind as to distort the conditions of competition and hinder trade between Member States.

(¹) OJ L 347, 2006, p. 1.

(²) OJ L 71, 2006, p. 1301.