

3. The CFI erred in law in holding that (i) the Appellant cannot be said to have acted benevolently, (ii) the Commission was able to manage the project itself, and (iii) there is a requirement that a person claiming under the principle of *negotiorum gestio* must necessarily act without the knowledge of the principal.
4. The CFI's findings on the pleas of unjust enrichment and *negotiorum gestio* on the one hand, and the plea of legitimate expectations on the other hand, are inconsistent.
5. In rejecting the Appellant's claim based on negligence or fault liability, the CFI erred in considering that insufficient argument had been adduced by the Appellant, given that the matter speaks for itself on the facts of this case in the particular circumstances where the Commission exercises powers of recovery under the Financial Regulation.
6. The CFI erred in holding (i) that there was no evidence before the Court to prove that the assurances relied upon by the Appellant were communicated at the meeting of 2 October 1998 and (ii) that it was highly unlikely that such assurances were communicated.
7. The CFI erred in law in holding that the Commission's failure to make a note of the meeting of 2 October 1998 established the informality of that meeting and, from this error, it erroneously discounted the possibility of the Commission having communicated such assurances by one means or another. Further, the CFI wrongly took into account the manner by which the assurances were conveyed, and erroneously failed to take into account the proper context, namely a context in which the Commission had committed itself to do no more than pay for work done pursuant to a properly constituted contractual specification, and for which the Commission already had a budget.

(¹) OJ L 356, p. 1.

Reference for a preliminary ruling from the Cour d'Appel de Liège (Belgium) lodged on 5 February 2007 — Belgian State v Les Vergers du Vieux Tauves SA

(Case C-48/07)

(2007/C 82/38)

Language of the case: French

Referring court

Cour d'Appel de Liège

Parties to the main proceedings

Applicant: Belgian State

Defendant: Les Vergers du Vieux Tauves SA

Question referred

Is the Law of 28 December 1992, which amended the wording of Article 202 of the 1992 Code of Taxation on Income by referring to Directive 90/435/EEC (¹) and required that the beneficial owner of dividends have a holding of capital in the Company which distributed such dividend, in as much as that Law does not explicitly specify that the holding must be as full owner and therefore implicitly permits the interpretation made by the respondent, that the mere holding of a right of usufruct of shareholdings in the capital carries the right to tax exemption on such dividends, compatible with the provisions of that Directive concerning holdings in capital, and in particular with its Articles 3, 4 and 5?

(¹) Council Directive 90/435/EEC of 23 July 1990 on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States (OJ L 225, p. 6).

Reference for a preliminary ruling from the Arbeidshof te Brussel (Belgium) lodged on 6 February 2007 — Centrum voor gelijkheid van kansen en voor racismebestrijding v NV Firma Feryn

(Case C-54/07)

(2007/C 82/39)

Language of the case: Dutch

Referring court

Arbeidshof te Brussel

Parties to the main proceedings

Appellant: Centrum voor gelijkheid van kansen en voor racismebestrijding

Respondent: NV Firma Feryn