

2) Article 14(1) of Decision No 1/80 must be interpreted as not precluding the taking of an expulsion measure against a Turkish national who has been the subject of several criminal convictions, provided that his behaviour constitutes a genuine and sufficiently serious threat to a fundamental interest of society. It is for the national court to determine whether that is the case in the main proceedings.

(<sup>1</sup>) OJ C 281, 18.11.2006.

**Judgment of the Court (Fifth Chamber) of 27 September 2007 — Commission of the European Communities v Grand Duchy of Luxembourg**

(Case C-354/06) (<sup>1</sup>)

*(Failure of Member State to fulfil obligations — Protection of the environment — Access to justice)*

(2007/C 297/22)

Language of the case: French

**Parties**

*Applicant:* Commission of the European Communities (represented by: J. Hottiaux and F. Simonetti, agents, acting as Agent(s))

*Defendant:* Grand Duchy of Luxembourg (represented by: C. Schiltz, agent.)

**Re:**

Failure of Member State to fulfil obligations — Failure to take within the prescribed period the measures necessary to comply with Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC (OJ 2003 L 156, p. 17)

**Operative part of the judgment**

The Court:

1. Declares that by failing to take in the prescribed period all the legislative regulatory and administrative measures necessary to comply with Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC, the Grand Duchy of Luxembourg has failed to fulfil its obligations under that directive;

2. Orders the Grand Duchy of Luxembourg to pay the costs.

(<sup>1</sup>) OJ C 249 of 14.10.2006.

**Judgment of the Court (Fourth Chamber) of 11 October 2007 (reference for a preliminary ruling from the Supremo Tribunal Administrativo — Portugal) — Erika Hollmann v Fazenda Pública**

(Case C-443/06) (<sup>1</sup>)

*(Direct taxation — Taxation of capital gains on immovable property — Free movement of capital — Basis of assessment — Discrimination — Cohesion of the tax system)*

(2007/C 297/23)

Language of the case: Portuguese

**Referring court**

Supremo Tribunal Administrativo

**Parties to the main proceedings**

*Applicant:* Erika Hollmann

*Defendant:* Fazenda Pública

*Intervener:* Ministério Público

**Re:**

Reference for a preliminary ruling — Supremo Tribunal Administrativo — Interpretation of Articles 12 EC, 18 EC, 39 EC, 43 EC and 56 EC — Taxation of capital gains realised on the transfer for valuable consideration of real property — Exclusion from the part exemption provided for for persons residing in Portugal of capital gains realised on such transfers made by persons residing in another Member State

**Operative part of the judgment**

Article 56 EC must be interpreted as precluding national legislation, such as that in dispute in the main proceedings, which subjects capital gains resulting from the transfer of immovable property situated in a Member State, in this case Portugal, where that transfer is made by a resident of another Member State, to a tax burden greater than that which would be applicable for the same type of transaction to capital gains realised by a resident of the State in which that immovable property is situated.

(<sup>1</sup>) OJ C 326, 30.12.2006.