

*Intervening party:* Saceccav Depurazioni Sacede SpA

**Re:**

Reference for a preliminary ruling — Tribunale Amministrativo Regionale per la Sicilia — Interpretation of Articles 43 EC, 49 EC and 86 EC — Award of water service to a semi-private company appointing, in accordance with a competitive procedure, a private partner to be responsible for operating the service — Award made without regard to the rules governing the award of public contracts

**Operative part of the judgment**

Articles 43 EC, 49 EC and 86 EC do not preclude the direct award of a public service which entails the prior execution of certain works, such as that at issue in the main proceedings, to a semi-public company formed specifically for the purpose of providing that service and possessing a single corporate purpose, the private participant in the company being selected by means of a public and open procedure after verification of the financial, technical, operational and management requirements specific to the service to be performed and of the characteristics of the tender with regard to the service to be delivered, provided that the tendering procedure in question is consistent with the principles of free competition, transparency and equal treatment laid down by the EC Treaty with regard to concessions.

<sup>(1)</sup> OJ C 197, 2.8.2008.

**Judgment of the Court (Seventh Chamber) of 15 October 2009 — Commission of the European Communities v Kingdom of the Netherlands**

(Case C-232/08) <sup>(1)</sup>

*(Failure of a Member State to fulfil obligations — Regulation (EC) No 850/1998 — Article 29(2) — Restrictions on fishing for plaice — Maximum engine power of fishing vessels — Regulation (EEC) No 2847/93 — Article 2(1) — Regulation (EC) No 2371/2002 — Article 23 — Control, and enforcement of the rules)*

(2009/C 297/08)

*Language of the case:* Dutch

**Parties**

*Applicant:* Commission of the European Communities (represented by: T. van Rijn and K. Banks, Agents)

*Defendant:* Kingdom of the Netherlands (represented by: M. de Grave and C. Wissels, Agents)

**Re:**

Failure of a Member State to fulfil obligations — Infringement of Article 29(2) of Council Regulation (EC) No 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of

marine organisms, Article 23 of Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy and Article 2(1) of Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy — Fishing for plaice — Inspection and control of fishing vessels and their activities — Responsibility of the Member States

**Operative part of the judgment**

*The Court:*

1. Declares that, by allowing fishing vessels to have a higher engine power than permitted under Article 29(2) of Council Regulation (EC) No 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms, as amended by Council Regulation (EC) No 2166/2005 of 20 December 2005, the Kingdom of the Netherlands has failed to fulfil its obligations under Article 23 of Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy and Article 2(1) of Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy, as amended by Council Regulation (EC) No 768/2005 of 26 April 2005;
2. orders the Kingdom of the Netherlands to pay the costs.

<sup>(1)</sup> OJ C 209, 15.08.2008.

**Judgment of the Court (Fourth Chamber) of 22 October 2009 (reference for a preliminary ruling from the Bundesfinanzhof (Germany)) — Swiss Re Germany Holding GmbH v Finanzamt München für Körperschaften**

(Case C-242/08) <sup>(1)</sup>

*(Sixth VAT Directive — Articles 9(2)(e), fifth indent, and 13B(a), (c) and (d)(2) and (3) — Insurance and reinsurance transactions — Concept — Transfer of a portfolio of life reinsurance contracts, for consideration, to a person established in a third country — Determination of the place of that transfer — Exemptions)*

(2009/C 297/09)

*Language of the case:* German

**Referring court**

Bundesfinanzhof

**Parties to the main proceedings**

*Applicant:* Swiss Re Germany Holding GmbH

*Defendant:* Finanzamt München für Körperschaften