

The EU must consider itself bound by the terms of the UN Charter and the UN Security Council decisions made under it.

It is inconsistent with the binding effect of UN Security Council decisions for the judicature of the Union to engage in a full review of the EU measures that seek to implement the Security Council decisions.

To the extent that any review of EU measures faithfully implementing Security Council resolutions is appropriate, the Union judicature must pay due regard to the nature and purpose of the United Nations Charter and the role of the Security Council as the principal body charged with ensuring international peace and security. Given the nature of the Security Council and the important role which it fulfils, having regard to the creation and operation of the Office of Ombudsperson, and taking due account of the summary of reasons provided to the Commission and Mr Yassin Abdullah Kadi, there is no reason to annul Regulation 881/2002 so far as it concerns Mr Yassin Abdullah Kadi.

(¹) OJ L 139, p. 9

Action brought on 16 December 2010 — European Commission v French Republic

(Case C-596/10)

(2011/C 72/18)

Language of the case: French

Parties

Applicant: European Commission (represented by: F. Dintilhac and M. Afonso, acting as Agents)

Defendant: French Republic

Form of order sought

— declare that, in applying a reduced rate of VAT to transactions relating to equidae and in particular to horses, where they are not as a matter of course intended for use in the preparation of foodstuffs or in agricultural production, the French Republic has failed to fulfil its obligations under Articles 96 to 99 of the VAT Directive (¹) and of Annex III thereto;

— order the French Republic to pay the costs.

Pleas in law and main arguments

The Commission raises two complaints in support of its action relating to the non-compliance with the VAT Directive by the national legislation that, firstly, makes transactions that do not fall within the exceptions set out in Annex III to that directive subject to a reduced rate of 5,5 % and, secondly, makes some transactions subject to a reduced rate of 2,1 %.

In its first complaint, the applicant points out that, apart from the fact that it applies a reduced rate of VAT of 5,5 % to transactions concerning live equidae without differentiating as to their use, the French legislation lays down yet more provisions which are not in accordance with the VAT Directive and, in particular, with paragraphs (1) and (11) of Annex III to that directive.

In its second complaint, the Commission criticises the defendant's administrative practice of applying a rate of 2,1 % to sales to persons not subject to VAT of live animals not intended for use as meat and meat products, and in particular horses for racing, competitions, pleasure and riding.

(¹) Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1)

Reference for a preliminary ruling from the Najvyšší súd Slovenskej republiky (Slovak Republic) lodged on 17 December 2010 — SAG ELV Slovensko, a.s., FELA Management AG, ASCOM (Schweiz) AG, Asseco Central Europe, a.s., TESLA Stropokov, a.s., Autostrade per l'Italia S.p.A., EFKON AG, Stalexport Autostrady S.A. v Úrad pre verejné obstarávanie

(Case C-599/10)

(2011/C 72/19)

Language of the case: Slovak

Referring court

Najvyšší súd Slovenskej republiky

Parties to the main proceedings

Applicants: SAG ELV Slovensko, a.s., FELA Management AG, ASCOM (Schweiz) AG, Asseco Central Europe, a.s., TESLA Stropokov, a.s., Autostrade per l'Italia S.p.A., EFKON AG, Stalexport Autostrady S.A.

Defendant: Úrad pre verejné obstarávanie

Intervener: Národná diaľničná spoločnosť, a.s.