

Operative part of the judgment

Article 13B(b) of Sixth Council Directive of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment must be interpreted to mean that the grant for consideration, under a contract of let for a period of 10 years, of the right to fish, by the landowner in waters owned by that person, and by the holder of fishing rights in publicly owned waters, does not constitute either a leasing or a letting of immovable property, inasmuch as that grant does not confer the right to occupy the immovable property concerned and to exclude any other person from it.

⁽¹⁾ OJ C 326, 30.12.2006.

Judgment of the Court (Eighth Chamber) of 6 December 2007 (reference for a preliminary ruling) from the Hof van beroep te Antwerpen (Belgium) — BVBA Van Landeghem v Belgische Staat

(Case C-486/06) ⁽¹⁾

(Common Customs Tariff — Combined Nomenclature — Tariff classification — Headings 8703 and 8704 — Pick-up type motor vehicle)

(2008/C 22/22)

Language of the case: French

Referring court

Hof van beroep te Antwerpen

Parties to the main proceedings

Applicant: BVBA Van Landeghem

Defendant: Belgische Staat

Re:

Reference for a preliminary ruling — Hof van Beroep te Antwerpen (Belgium) — Interpretation of Council Regulation No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and the common customs tariff (OJ 1987 L 256, p. 1) — Headings 8703 and 8704 — Classification of a 'pick-up' motor vehicle with an enclosed cabin for use as a passenger compartment and a load space not higher than 50 cm, a luxurious interior, ABS braking system, 4 to 8 litre petrol engine, four-wheel drive and luxurious sports rims

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Pick-ups such as those at issue in the main proceedings which consist, on the one hand, of an enclosed cabin for use as a passenger compart-

ment, there being, behind the driver's seat, folding or removable seats with three-point safety belts, and, on the other hand, of a load space which is separated from the cabin, is not higher than 50 centimetres, can be opened only at the rear and has no facilities for attaching a load, which have a luxurious full-option interior (including electrically adjustable leather seats, electrically operated mirrors and windows and a stereo with a CD player), and which are equipped with an anti-lock braking system (ABS), an automatic, 4 to 8-litre, very high-consumption petrol engine, four-wheel drive and luxurious (sports) rims, must be classified, according to their general appearance and the entirety of their characteristics, under heading 8703 of the Combined Nomenclature as set out in Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff as amended by the annexes to Commission Regulation (EC) No 3115/94 of 20 December 1994, Commission Regulation (EC) No 3009/95 of 22 December 1995 and Commission Regulation (EC) No 1734/96 of 9 September 1996.

⁽¹⁾ OJ C 20, 27.1.2007.

Judgment of the Court (Eighth Chamber) of 29 November 2007 — Commission of the European Communities v Republic of Malta

(Case C-508/06) ⁽¹⁾

(Failure of a Member State to fulfil obligations — Directive 96/59/EC — Article 11 — Waste management — Disposal of polychlorinated biphenyls and polychlorinated terphenyls — Failure to communicate the required plans and outlines)

(2008/C 22/23)

Language of the case: English

Parties

Applicant: Commission of the European Communities (represented by: M. Konstantinidis and D. Lawunmi, Agents)

Defendant: Republic of Malta (represented by: S. Camilleri, L. Farrugia, Agents)

Re:

Failure of a Member State to fulfil obligations — Article 11 of Council Directive 96/59/EC of 16 September 1996 on the disposal of polychlorinated biphenyls and polychlorinated terphenyls (PCB/PCT) (OJ 1996 L 243, p. 31) — Failure to prepare and communicate to the Commission within the period laid down the plans, outlines and summaries of inventories prescribed by the directive

Operative part of the judgment

The Court:

1. Declares that, by failing to communicate the plans and outlines required under Article 11 of Council Directive 96/59/EC of 16 September 1996 on the disposal of polychlorinated biphenyls and polychlorinated terphenyls (PCB/PCT), the Republic of Malta has failed to fulfil its obligations under Article 11 of the Directive, read in conjunction with Article 54 of the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded;
2. Orders the Republic of Malta to pay the costs.

(¹) OJ C 56, 10.3.2007.

Judgment of the Court (Second Chamber) of 6 December 2007 — Commission of the European Communities v Ferriere Nord SpA

(Case C-516/06 P) (¹)

(Appeal — Competition — Commission decision — Fine — Enforcement — Regulation (EEC) No 2988/74 — Limitation period — Acts adversely affecting a party — Inadmissibility)

(2008/C 22/24)

Language of the case: French

Parties

Appellant: Commission of the European Communities (represented by: V. Di Bucci and F. Amato, Agents)

Other party to the proceedings: Ferriere Nord SpA (represented by: W. Viscardini and G. Donà, avvocati)

Re:

Appeal against the judgment of the Court of First Instance of 27 September 2006 in Case T-153/04 *Ferriere Nord SpA v Commission* by which the Court of First Instance annulled the Commission decisions notified by letter of 5 February 2004 and by facsimile of 13 April 2004 concerning the outstanding balance of the fine imposed on the applicant by Commission Decision 89/515/EEC of 2 August 1989 relating to a proceeding under Article 85 of the EEC Treaty (IV/31.553 — Welded steel mesh)

Operative part of the judgment

The Court:

1. Sets aside the judgment of the Court of First Instance of the European Communities of 27 September 2006 in Case T-153/04 *Ferriere Nord v Commission*;
2. Declares the action for annulment brought by Ferriere Nord SpA against the decisions of the Commission of the European Communities notified by letter of 5 February 2004 and by fax of 13 April 2004 concerning the outstanding balance of the fine imposed on Ferriere Nord SpA by Commission Decision 89/515/EEC of 2 August 1989 relating to a proceeding under Article 85 of the EEC Treaty (IV/31.553 — Welded steel mesh) inadmissible.
3. Orders Ferriere Nord SpA to pay the costs of both sets of proceedings.

(¹) OJ C 42, 24.2.2007.

Judgment of the Court (Sixth Chamber) of 29 November 2007 — Commission of the European Communities v Kingdom of Spain

(Case C-6/07) (¹)

(Failure of a Member State to fulfil obligations — Directive 2002/74/EC — Protection of workers — Insolvency of employer)

(2008/C 22/25)

Language of the case: Spanish

Parties

Applicant: Commission of the European Communities (represented by: J. Enegren and R. Vidal Puig, acting as Agents)

Defendant: Kingdom of Spain (represented by: F. Díez Moreno, Agent)

Re:

Failure of a Member State to fulfil obligations — Failure to adopt within the prescribed period the provisions necessary to comply with Directive 2002/74/EC of the European Parliament and of the Council of 23 September 2002, amending Council Directive 80/987/EEC on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer (OJ 2002 L 270, p. 10)