

Re:

Failure of a Member State to fulfil obligations — Breach of Articles 43 EC and 56 EC — National law making the acquisition of certain shareholdings in undertakings which carry on regulated activities in the energy sector subject to prior approval of a special commission

Operative part of the judgment

The Court:

1. Declares that, by adopting the first indent of the second paragraph of the single article of the fourteenth function of the National Energy Commission provided for in Supplementary Provision No 11, part 3, point 1 of Law 34/1998 of 7 October 1998 on the hydrocarbon sector (*Ley 34/1998, del sector de hidrocarburos*), as amended by Royal Decree-Law 4/2006 of 24 February 2006 (*Real Decreto-Ley 4/2006*), in order to make the acquisition of certain shareholdings in undertakings which carry on certain regulated activities in the energy sector and the acquisition of the assets necessary to carry on such activities subject to the prior approval of the National Energy Commission, the Kingdom of Spain has failed to fulfil its obligations under Articles 43 EC and 56 EC;
2. Orders the Kingdom of Spain to pay the costs.

(¹) OJ C 140, 23.6.2007.

Judgment of the Court (Third Chamber) of 17 July 2008
(reference for a preliminary ruling from the Finanzgericht Düsseldorf — Germany) — Flughafen Köln/Bonn GmbH v Hauptzollamt Köln

(Case C-226/07) (¹)

(Directive 2003/96/EC — Community framework for the taxation of energy products and electricity — Article 14(1)(a) — Exemption for energy products used to produce electricity — Option to impose taxation for reasons of environmental policy — Direct effect of the exemption)

(2008/C 223/23)

Language of the case: German

Referring court

Finanzgericht Düsseldorf

Parties to the main proceedings

Applicant: Flughafen Köln/Bonn GmbH

Defendant: Hauptzollamt Köln

Re:

Reference for a preliminary ruling — Finanzgericht Düsseldorf — Interpretation of Article 14(1)(a) of Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (OJ 2003 L 283, p. 51) — Direct effect — National legislation not exempting gas oil used to produce electricity from mineral oil tax

Operative part of the judgment

Article 14(1)(a) of Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity, in so far as it provides for the exemption from taxation under that directive of energy products used to produce electricity, has direct effect in the sense that it may be relied upon by an individual before national courts — in relation to a period of time during which the Member State concerned was in default of its obligation to transpose that directive into its national law within the prescribed period — in a dispute, such as that in the main proceedings, between that individual and the customs authorities of that State, for the purpose of having national legislation which is incompatible with that provision disapplied and, consequently, obtaining a refund of tax which infringed that provision.

(¹) OJ C 155, 7.7.2007.

Judgment of the Court (Sixth Chamber) of 10 July 2008 —
Commission of the European Communities v Portuguese Republic

(Case C-307/07) (¹)

(Failure of a Member State to fulfil its obligations — Directive 89/48/EEC — Recognition of diplomas awarded on completion of professional education and training of at least three years' duration — Failure to recognise diplomas which give access to the profession of pharmacist specialising in medical biology — Failure to transpose)

(2008/C 223/24)

Language of the case: Portuguese

Parties

Applicant: Commission of the European Communities (represented by: H. Støvlbæk and P. Andrade, acting as Agents)

Defendant: Portuguese Republic (represented by: L. Fernandes, Agent)