

Parties to the main proceedings

Applicant: A.T.

Defendant: Finanzamt Stuttgart-Körperschaften

Intervening party: Bundesministerium der Finanzen

Re:

Reference for a preliminary ruling — Bundesfinanzhof — Interpretation of Article 8(1) and (2) of Council Directive 90/434/EEC of 23 July 1990 on the common system of taxation applicable to mergers, divisions, transfers of assets and exchanges of shares concerning companies of different Member States (OJ 1990 L 225, p. 1) and of Articles 43 EC and 56 EC — Shareholder receiving securities representing the capital of the acquiring company in exchange for securities of the acquired company — Taxation of the shareholder of the acquired company — Tax legislation of a Member State making the shareholder's attribution of the book value (Buchwertansatz) to the securities received in exchange conditional upon the acquiring company's own attribution of the book value to the securities exchanged (doppelte Buchwertverknüpfung)

Operative part of the judgment

Article 8(1) and (2) of Council Directive 90/434/EEC of 23 July 1990 on the common system of taxation applicable to mergers, divisions, transfers of assets and exchanges of shares concerning companies of different Member States precludes legislation of a Member State under which, in consequence of an exchange of shares, the shareholders of the acquired company are taxed on the capital gains arising from the transfer and the capital gain is deemed to correspond to the difference between the initial cost of acquiring the shares transferred and their market value, unless the acquiring company carries over the historical book value of the shares transferred in its own tax balance sheet.

⁽¹⁾ OJ C 247, 20.10.2007.

Judgment of the Court (Second Chamber) of 11 December 2008 — Commission of the European Communities v Hellenic Republic

(Case C-293/07) ⁽¹⁾

(Failure of a Member State to fulfil obligations — Directives 79/409/EEC and 92/43/EC — Conservation of wild birds — Special protection areas — Insufficient measures of protection)

(2009/C 32/06)

Language of the case: Greek

Parties

Applicant: Commission of the European Communities (represented by: M. Konstantinidis, D. Recchia and M. Patakia, acting as Agents)

Defendant: Hellenic Republic (represented by: E. Skandalou, Agent)

Re:

Failure of a Member State to fulfil obligations — Infringement of Articles 4(1) and (2) of Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds (OJ 1979 L 103, p. 1), in conjunction with Article 4(4) of Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ 1992 L 206, p. 7) — Lack of protection for Special Protection Areas (SPAs) — Existence of activities which may damage the integrity of SPAs and have negative consequences for the objectives of conservation of SPAs and of the species for which the areas have been defined

Operative part of the judgment

The Court:

1. Declares that, by failing to take all the measures necessary to establish and apply a coherent, specific and integrated legal regime capable of ensuring viable management and effective protection of areas designated as Special Protection Areas, in the light of the conservation objectives of Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds, the Hellenic Republic has failed to fulfil its obligations under Article 4(1) and (2), in conjunction with the first sentence of Article 4(4) of that directive, as amended by Article 6(2) to (4) of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora;
2. Dismisses the remainder of the action;
3. Orders the Hellenic Republic to pay the costs.

⁽¹⁾ OJ C 182, 4.8.2007.

Judgment of the Court (First Chamber) of 11 December 2008 — Commission of the European Communities v Département du Loiret, Scott SA

(Case C-295/07 P) ⁽¹⁾

(Appeal — State aid — Preferential price of a plot of land — Commission decision — Recovery of aid incompatible with the common market — Present-day value of the aid — Compound interest rate — No statement of reasons — Complete annulment — Lawfulness)

(2009/C 32/07)

Language of the case: French

Parties

Appellant: Commission of the European Communities (represented by: J. Flett, acting as Agent)