

Judgment of the Court (Third Chamber) of 13 November 2008 — Commission of the European Communities v Italian Republic

(Case C-437/07) ⁽¹⁾

(Failure of a Member State to fulfil obligations — Public procurement — Design and construction of a municipal tramway — Public works contract — Award by means of a procedure for the award of a public works concession — Infringement of Directive 93/37)

(2009/C 6/13)

Language of the case: Italian

Parties

Applicant: Commission of the European Communities (represented by: C. Zadra and D. Kukovec, Agents)

Defendant: Italian Republic (represented by: I. Braguglia and G. Fiengo, Agents)

Re:

Failure of a Member State to fulfil obligations — Infringement of Articles 43 EC and 49 EC and Articles 7 and 11 of Council Directive 93/37/EEC of 14 June 1993 concerning the coordination of procedures for the award of public works contracts (OJ 1993 L 199, p. 54) — Infringement of the principles of transparency and non-discrimination — Public works carried out by means of ‘project financing’

Operative part of the judgment

1. *In so far as the Comune di l'Aquila (Municipality of Aquila) awarded a public works contract concerning the design and construction of a rubber tramway for public transport in that town by means of a procedure different to those laid down for the award of public works contracts by Council Directive 93/37/EEC of 14 June 1993 concerning the coordination of procedures for the award of public works contracts, the Italian Republic has failed to fulfil its obligations under that Directive;*
2. *The Italian Republic is to pay the costs.*

⁽¹⁾ OJ C 297, 8.12.2007.

Judgment of the Court (Second Chamber) of 20 November 2008 (reference for a preliminary ruling from the Tribunal d'instance de Bordeaux — France) — Foselev Sud-Ouest SARL v Administration des douanes et droits indirects

(Case C-18/08) ⁽¹⁾

(Tax on motor vehicles — Directive 1999/62/EC — Charging of heavy goods vehicles for the use of certain infrastructures — Article 6(2)(b) — Commission decision approving an exemption — No direct effect)

(2009/C 6/14)

Language of the case: French

Referring court

Tribunal d'instance de Bordeaux

Parties to the main proceedings

Applicant: Foselev Sud-Ouest SARL

Defendant: Administration des douanes et droits indirects

Re:

Reference for a preliminary ruling — Tribunal d'Instance de Bordeaux (France) — Interpretation of Commission Decision 2005/449/EC, concerning a request for exemption from the vehicle tax rules submitted by France pursuant to Article 6(2)(b) of Directive 1999/62/EC of the European Parliament and of the Council of 17 June 1999 on the charging of heavy goods vehicles for the use of certain infrastructures (OJ 2005 L 158, p. 23) — Whether that decision has direct effect or, as an authorisation decision, requires a measure transposing it into national law?

Operative part of the judgment

Commission Decision 2005/449/EC of 20 June 2005 concerning a request for exemption from the vehicle tax rules submitted by France pursuant to Article 6(2)(b) of Directive 1999/62/EC of the European Parliament and of the Council on the charging of heavy goods vehicles for the use of certain infrastructures cannot be relied on by an individual against the French Republic, to which that decision was addressed, in order to obtain the benefit of the exemption approved by that decision upon its notification or publication.

⁽¹⁾ OJ C 79, 29.3.2008.