

**Case C-414/07**

**Magoora sp. zo. o.**

**v**

**Dyrektor Izby Skarbowej w Krakowie**

(Reference for a preliminary ruling  
from the Wojewódzki Sąd Administracyjny w Krakowie)

(Sixth VAT Directive — Article 17(2) and (6) — National legislation — Deduction of VAT on the purchase of fuel for certain vehicles irrespective of the purpose for which they are used — Effective restriction on deductions — Exclusions laid down by national law when the directive entered into force)

Judgment of the Court (Fourth Chamber), 22 December 2008. . . . . I - 10923

Summary of the Judgment

*Tax provisions — Harmonisation of laws — Turnover taxes — Common system of value added tax — Deduction of input tax — Exclusion from the right to deduct  
(Council Directive 77/388, Art. 17(6), second para.)*

I - 10921

The second subparagraph of Article 17(6) of Sixth Directive 77/388 on the harmonisation of the laws of the Member States relating to turnover taxes precludes a Member State from repealing in their entirety, when that directive is transposed into national law, national provisions concerning restrictions on the right to deduct input tax on purchases of fuel for vehicles used for a taxable activity, by replacing, on the date on which that directive entered into force on its territory, those provisions by provisions laying down new criteria in that regard, if — which it is for the national court to determine — the latter provisions have the effect of extending the scope of those restrictions. In that connection, the concept of ‘national legislation’ within the meaning of the second subparagraph of Article 17(6) of the Sixth Directive refers to the rules on deducting VAT existing and

actually applied when that directive entered into force. The ‘standstill’ clause, provided for in the second subparagraph of Article 17(6) of the Sixth Directive is not intended to allow a new Member State to amend its domestic legislation on its accession to the European Union in a way which diverts that legislation from the objectives of that directive. The second subparagraph of Article 17(6) precludes, in any event, a Member State from subsequently amending its legislation which entered into force on that date, so as to extend the scope of those restrictions as compared with the situation existing prior to that date.

(see paras 38, 39, 45, operative part)