

Operative part of the judgment

Article 5(4) of Council Regulation (EC) No 1383/2003 of 22 July 2003 concerning customs action against goods suspected of infringing certain intellectual property rights and the measures to be taken against goods found to have infringed such rights, read in the light of Article 146 of Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark, as amended by Council Regulation (EC) No 1992/2003 of 27 October 2003, is to be interpreted as allowing the holder of an internationally registered trade mark to secure action by the customs authorities of one or more other Member States, besides that of the Member State in which it is lodged, just like the proprietor of a Community trade mark.

(¹) OJ C 247, 27.9.2008.

Judgment of the Court (First Chamber) of 25 June 2009 — Commission of the European Communities v Republic of Austria

(Case C-356/08) (¹)

(Failure of a Member State to fulfil obligations — Freedom to provide services — Freedom of establishment — Free movement of capital — National legislation imposing an obligation on medical doctors established in the territory of the Land of Upper Austria to open a bank account with a particular bank)

(2009/C 205/16)

Language of the case: German

Parties

Applicant: Commission of the European Communities (represented by: E. Traversa, acting as Agent and A. Böhlke, Rechtsanwalt)

Defendant: Republic of Austria (represented by: C. Pesendorfer, acting as Agent)

Re:

Failure of a Member State to fulfil obligations — Breach of Articles 43 EC, 49 EC and 56 EC — National legislation imposing an obligation on medical doctors established in the territory of the Land of Upper Austria to open a bank account with the Oberösterreichische Landesbank

Operative part of the judgment

The Court:

1. Declares that, by imposing an obligation on every medical doctor becoming established in Oberösterreich (Land of Upper Austria) to open a bank account with the Oberösterreichische Landesbank in Linz to which fees for benefits in kind in the context of the exercise of his professional activity are to be transferred by the health insurance funds, the Republic of Austria has failed to comply with its obligations under Article 49 EC;

2. Orders the Republic of Austria to pay the costs.

(¹) OJ C 247, 27.09.2008.

Judgment of the Court (Seventh Chamber) of 2 July 2009 (reference for a preliminary ruling from the Corte suprema di cassazione (Italy)) — EGN BV — Filiale Italiana v Agenzia delle Entrate — Ufficio di Roma 2

(Case C-377/08) (¹)

(Sixth VAT Directive — Article 17(3)(a) — Deductibility and refunding of input VAT — Provision of telecommunications services — Supply of services for a customer established in another Member State — Article 9(2)(e) — Determination of the place where the service is provided)

(2009/C 205/17)

Language of the case: Italian

Referring court

Corte suprema di cassazione

Parties to the main proceedings

Applicant: EGN BV — Filiale Italiana

Defendant: Agenzia delle Entrate — Ufficio di Roma 2

Re:

Reference for a preliminary ruling — Corte suprema di cassazione — Interpretation of Article 9(2)(e) and Article 17(3)(a) of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (OJ 1977 L 145, p. 1) — Supply of cross-border telecommunications services — Right of the supplier of such services to deduct input tax, as permitted under the domestic regime

Operative part of the judgment

Article 17(3)(a) of Sixth Council Directive 77/388/EEC 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, as amended by Council Directive 95/7/EC of 10 April 1995, must be interpreted as meaning that a supplier of telecommunications services such as the one at issue in the main proceedings, which is established in the territory of a Member State,