

Operative part of the judgment

The Court:

1. Declares that, in applying a reduced rate of value added tax to the supply of services by *avocats*, *avocats au Conseil d'État* et à la *Cour de cassation* and *avoués*, for which they are paid in full or in part by the State under the legal aid scheme, the French Republic has failed to fulfil its obligations under Articles 96 and 98(2) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax;
2. Orders the French Republic to pay the costs.

(¹) OJ C 19, 24.01.2009.

**Judgment of the Court (Fourth Chamber) of 17 June 2010
(reference for a preliminary ruling from the *Finanzgericht München* — Germany) — *British American Tobacco (Germany) GmbH v Hauptzollamt Schweinfurt***

(Case C-550/08) (¹)

(Directive 92/12/EEC — Products subject to excise duty — Importation of raw tobacco not subject to excise duty under the inward processing procedure — Processing into cut tobacco — Movement between Member States — Accompanying document)

(2010/C 221/10)

Language of the case: German

Referring court

Finanzgericht München

Parties to the main proceedings

Applicant: British American Tobacco (Germany) GmbH

Defendant: Hauptzollamt Schweinfurt

Re:

Reference for a preliminary ruling — *Finanzgericht München* — Interpretation of Articles 5(2) and 15(4) of Council Directive 92/12/EEC of 25 February 1992 on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products (OJ 1992 L 76, p. 1) — Cut tobacco subject to excise duty, manufactured in a Member State under an inward processing procedure in the form of a suspension system from raw tobacco which was

not subject to excise duty when it was imported into Community territory — Whether, for purposes of applying the duty-suspension arrangements to the intra-Community movement of that tobacco product, an accompanying document drawn up by the consignor in accordance with Article 18(1) of Directive 92/12/EEC is required

Operative part of the judgment

The first indent of the first subparagraph of Article 5(2) of Council Directive 92/12/EEC of 25 February 1992 on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products must be interpreted as meaning that products subject to excise duty (such as manufactured tobacco) which are manufactured from products not subject to excise duty (such as raw tobacco) and imported into the Community under the inward-processing procedure are to be deemed to be subject to duty-suspension arrangements, within the meaning of that provision, even though they have become products subject to excise duty only by virtue of having been processed within Community territory, with the result that they can move between Member States without the administrative authorities being entitled to insist on production of the administrative or commercial document provided for in Article 18(1) of that directive.

(¹) OJ C 69, 21.03.2009.

**Judgment of the Court (Third Chamber) of 24 June 2010 —
European Commission v Italian Republic**

(Case C-571/08) (¹)

(Failure of a Member State to fulfil obligations — Directive 95/59/EC — Taxes other than turnover taxes which affect the consumption of manufactured tobacco — Article 9(1) — Free determination, by manufacturers and importers, of the maximum retail selling prices of their products — National legislation imposing a minimum retail selling price for cigarettes — Justification — Protection of public health)

(2010/C 221/11)

Language of the case: Italian

Parties

Applicant: European Commission (represented by: W. Mölls and L. Pignataro, acting as Agents)

Defendant: Italian Republic (represented by: I. Bruni, then by G. Palmieri, acting as Agents and F. Arena, avvocato dello Stato)

Re:

Failure of a Member State to fulfil obligations — Infringement of Article 9 of Council Directive 95/59/EC of 27 November 1995 on taxes other than turnover taxes which affect the consumption of manufactured tobacco (OJ 1995 L 291, p. 40) — Fixing minimum prices — Approval of prices.

Operative part of the judgment

The Court:

1. Declares that, by providing for a minimum price for cigarettes, the Italian Republic has failed to fulfil its obligations under Article 9(1) of Council Directive 95/59/EC of 27 November 1995 on taxes other than turnover taxes which affect the consumption of manufactured tobacco, as amended by Council Directive 2002/10/EC of 12 February 2002;
2. Orders the Italian Republic to pay the costs.

(¹) OJ C 55, 7.3.2009.

**Judgment of the Court (First Chamber) of 3 June 2010
(reference for a preliminary ruling from the Varhoven administrativen sad — Bulgaria) — Regionalna Mitnicheska Direktsia — Plovdiv v Petar Dimitrov Kalinchev**

(Case C-2/09) (¹)

(Excise duties — Taxation of used vehicles — Taxation of imported used vehicles higher than that imposed on vehicles which are already in circulation in the national territory — Taxation according to the year of manufacture and mileage of the vehicles — Concept of ‘similar domestic products’)

(2010/C 221/12)

Language of the case: Bulgarian

Referring court

Varhoven administrativen sad

Parties to the main proceedings

Applicant: Regionalna Mitnicheska Direktsia — Plovdiv

Defendant: Petar Dimitrov Kalinchev

Re:

Reference for a preliminary ruling — Varhoven Administrativen Sad — Interpretation of Article 25 and Article 90, first paragraph, of the EC Treaty and of Article 3(3) of Council Directive 92/12/EEC of 25 February 1992 on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products (OJ 1992 L 76, p. 1) — National (excise) duty imposed on second-hand motor vehicles from a Member State on their introduction onto national territory, higher than the excise payable on new motor vehicles introduced onto the same national territory, which, being already in circulation, are no longer subject to excise duties on their subsequent resale as second-hand vehicles — Meaning of ‘similar domestic products’ — Compatibility of national legislation with Community rules

Operative part of the judgment

1. The first subparagraph of Article 3(3) of Council Directive 92/12/EEC of 25 February 1992 on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products does not apply to a case such as the main proceedings and cannot therefore preclude a Member State from laying down provisions levying excise duty on the introduction of used motor vehicles into its territory, if that duty is not directly payable on the second-hand purchase of such vehicles which are already in the country and on which excise duty has already been paid on first introduction into the territory of the Member State, provided that such a system does not give rise to border-crossing formalities in trade between Member States.
2. The first paragraph of Article 110 TFEU must be interpreted as meaning that used vehicles imported into Bulgaria must be considered as similar products to used vehicles already registered in that State which were imported into that State as new vehicles, independently of their origin.
3. The first paragraph of Article 110 TFEU precludes a Member State from applying differing rules on the levying of excise duty on motor vehicles in circumstances such as those in the present case where that excise duty is levied differently on used vehicles imported from other Member States and used vehicles already registered in that State and which were imported into that State as new vehicles.

(¹) OJ C 55, 7.3.2009.