from the entry of the amount of duty in the accounts for own resources as referred to in Article 6 of Regulation No 1150/2000 ([2]) of 22 May 2000 implementing Decision 94/728/EC, Euratom on the system of the Communities' own resources?

3. Should Article 221(1) of the Community Customs Code be understood to mean that a notification of the amount of duty by the customs authorities to the debtor in accordance with appropriate procedures can be regarded as the communication of the amount of duty by the customs authorities as referred to in Article 221(1) only if the amount of duty was entered in the accounts before being brought to the debtor's attention? In addition, what is meant by the words 'in accordance with appropriate procedures' used in Article 221(1)?

4. If the answer to the third question is affirmative, can an assumption be made to the advantage of the State that the amount of duty was entered in the accounts before being communicated to the debtor? Can the national court also proceed on the assumption that the declaration by the customs authorities that the amount of duty was entered in the accounts before being communicated to the debtor is true, or should those authorities submit written evidence of the entry of the amount of duty in the accounts to the national court as a matter of course?

5. Must the entry of the amount of duty in the accounts required by Article 221(1) of the Community Customs Code precede its communication to the debtor on pain of the annulment or expiry of the right to proceed to recovery or post-clearance recovery of the customs debt? In other words, should Article 221(1) be understood to mean that, if the amount of duty is brought to the attention of the debtor by the customs authorities in accordance with appropriate procedures, but without the amount of duty having been entered in the accounts by the customs authorities prior to that notification, the amount of duty cannot be recovered, unless the customs authorities again bring the amount of duty to the debtor's attention in accordance with appropriate procedures after the amount of duty has been entered in the accounts and in so far as that occurs within the limitation period laid down in Article 221 of the Community Customs Code?

6. If the fifth question is answered in the affirmative, what is the consequence of the payment by the debtor of the amount of duty communicated to him without its having been previously entered in the accounts? Should this be regarded as an undue payment which he may recover from the State?

([1]) OJ 1992 L 302, p. 1.
([2]) OJ 2000 L 130, p. 1.

Reference for a preliminary ruling from the Unabhängiger Finanzsenat, Außenstelle Klagenfurt (Austria) lodged on 20 June 2008 — SPÖ Landesorganisation Kärnten v Finanzamt Klagenfurt

(Case C-267/08)

(2008/C 247/06)

Language of the case: German

Referring court

Unabhängiger Finanzsenat, Außenstelle Klagenfurt

Parties to the main proceedings

Applicant: SPÖ Landesorganisation Kärnten

Defendant: Finanzamt Klagenfurt

Questions referred

1. Is Article 4(1) 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 ([1]) (the Sixth Directive) to be interpreted in such a way that 'external advertising' by the legally independent provincial organisation of a political party, taking the form of publicity, information provision, the staging of party events, the supply of advertising material to district organisations and the organisation and holding of an annual ball (the SPÖ Ball), is to be regarded as an economic activity if revenue is obtained from (partially) passing the expense of the 'external advertising' on to the likewise legally independent party structures (district organisations etc.) and from entrance fees from the holding of the ball?

2. In the assessment of whether there is 'economic activity' within the meaning of Article 4(1) and (2) of the Sixth Directive, is it prejudicial that the activities mentioned in Question 1 are also 'reflected' back to the provincial organisation and hence are beneficial to it too? It is in the nature of things that as a result of those activities the party as such and its political objectives and views are always also being publicised, if not in the forefront, nevertheless as an inevitable side effect.

3. Can there still be 'economic activity' in the above sense where the expenditure on 'external advertising' persistently exceeds many times over the revenue obtained from that activity by passing on the expense and the revenue obtained from holding the ball?

4. Is there an 'economic activity' even where the passing on of the expense does not take place according to readily ascertainable economic criteria (e.g. allocation of charges according to cause or benefit) and it is essentially left to the subordinate organisations to determine whether and to what extent they wish to contribute to the expenditure of the provincial organisations?

5. Is there an 'economic activity' even where advertising services are invoiced to the subordinate organisations in the form of a charge the amount of which is determined firstly by the number of members in the relevant local organisation and secondly by the number of members it sends to representative assemblies?

6. In determining whether there is economic activity, should subsidies from public funds which do not form part of the taxable consideration (such as, for example, the financing of parties under the Carinthian Parteienförderungsgesetz (Law on the financing of parties) be taken into consideration as it were as economic advantages?

7. If the 'external advertising', viewed in isolation, constitutes an economic activity within the meaning of Article 4(1) and (2) of the Sixth Directive, does the fact that publicity and election advertising is a central feature of the activity of political parties and a condition *sine qua non* for the implementing of political objectives and programmes preclude such activity from being classified as an 'economic activity'?

8. Are the activities performed by the appellant and described by it as 'external advertising' of such a nature as to be comparable with, or correspond in content to, activities carried out by commercial advertising agencies for the purposes of Annex D (number 10) of the Sixth Directive? If that question is answered affirmatively, can the extent of the activities be described as 'not insignificant' in the context of the revenue/expenditure structure prevailing at the material time for the purposes of the appeal?

([1]) OJ L 145, p. 1.

Action brought on 2 July 2008 — Commission of the European Communities v Czech Republic

(Case C-294/08)

(2008/C 247/07)

Language of the case: Czech

Parties

Applicant: Commission of the European Communities (represented by: B. Schima and M. Šimerdová, acting as Agents)

Defendant: Czech Republic

Form of order sought

— declare that,

  — by requiring, on registration of imported vehicles for which there is proof of type-approval with regard to roadworthiness by another Member State, that, at the time of that type-approval with regard to roadworthiness, a vehicle complies with the technical requirements in force at that time in the Czech Republic and

  — by requiring, in the event of non-fulfilment of those requirements, a test to verify whether the vehicle complies with the technical requirements in force for the given category of vehicles in the Czech Republic at the time of the vehicle's manufacture,

  the Czech Republic has failed to fulfil its obligations under Article 28 of the Treaty establishing the European Community;

— order the Czech Republic to pay the costs.

Pleas in law and main arguments

Under Czech Law, the conditions for the registration of second-hand vehicles imported into the Czech Republic from other Member States where they were previously registered, are laid down by Law No 56/2001 Coll. ([1]). Article 35(1) and (2) of Law No 56/2001 Coll. lays down conditions for the registration of individually imported second-hand vehicles for which there is proof of type-approval with regard to roadworthiness by another Member State.

The Czech authorities approve the roadworthiness of such a vehicle provided that the vehicle, its systems, structural parts or independent technical units fulfilled, at the time of type-approval with regard to roadworthiness in another EU Member State, the technical requirements in force at that time in the Czech Republic and laid down in the implementing legislation (Article 35(1) of Law No 56/2001 Coll.).

If, at the time of type-approval with regard to roadworthiness in another Member State, the vehicle, its systems, structural parts or independent technical units did not fulfil the conditions in force at that time in the Czech Republic and laid down in the implementing legislation, the appropriate authority is to decide on approval of roadworthiness for the vehicle on the basis of the technical report issued by the testing centre. The testing centre is to issue a technical certificate if the vehicle fulfils the technical conditions in force for the given category of vehicle in the Czech Republic at the time of the vehicle's manufacture (Article 35(2) of Law No 56/2001 Coll.).

It follows from Article 35(1) and (2) of Law No 56/2001 that the roadworthiness of all second-hand vehicles, for which another Member State has issued a certificate of type-approval with regard to roadworthiness, is always re-examined in the light of Czech law. That approach is, in the Commission's view, in breach of the principle of the freedom of moment of goods, according to which goods placed on the market in accordance with the legislation of one Member State must be admitted to the markets of all other Member States. The Czech legislation does not in any way take account of the results of the roadworthiness test carried out on the vehicles in question in another Member State, thereby constituting an infringement of Article 3(2) of Council Directive 96/96/EC.