

V

(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

**Judgment of the Court (Second Chamber) of 7 April 2011
— European Commission v Portuguese Republic**(Case C-20/09) ⁽¹⁾

(Failure of a Member State to fulfil obligations — Admissibility of the action — Free movement of capital — Article 56 EC — Article 40 of the EEA Agreement — Public debt securities — Preferential tax treatment — Justification — Combating of tax evasion — Combating of tax avoidance)

(2011/C 160/03)

Language of the case: Portuguese

Parties

Applicant: European Commission (represented by: R. Lyal and A. Caeiros, Agents)

Defendant: Portuguese Republic (represented by: L. Inez Fernandes, C. Guerra Santos and J. Menezes Leitão, Agents)

Re:

Failure of a Member State to fulfil its obligations — Infringement of Articles 56 EC and 40 EEA Agreement — Public debt securities — Preferential tax treatment for securities issued by the Portuguese State

Operative part of the judgment

The Court:

1. By providing under the exceptional tax regularisation scheme for assets not in Portuguese territory on 31 December 2004 ('regime excepcional de regularização tributária de elementos patrimoniais que não se encontram no território português em 31 de Dezembro de 2004') established by Law No 39-A/2005 of 29 July 2005, for preferential tax treatment of public debt securities issued only by the Portuguese State, the Portuguese Republic has failed to fulfil its obligations under Article 56 EC and Article 40 of the Agreement on the European Economic Area of 2 May 1992.
2. The Portuguese Republic is ordered to pay the costs.

⁽¹⁾ OJ C 82, 4.4.2009.

**Judgment of the Court (First Chamber) of 7 April 2011
(reference for a preliminary ruling from the Rechtbank van koophandel te Brussel — Belgium) — Francesco Guarnieri & Cie v Vandevelde Eddy VOF**(Case C-291/09) ⁽¹⁾

(Free movement of goods — Article 34 TFEU — Cautio judicatum solvi — Company governed by Monegasque law — First paragraph of Article 18 TFEU)

(2011/C 160/04)

Language of the case: Dutch

Referring court

Rechtbank van koophandel te Brussel

Parties to the main proceedings

Applicant: Francesco Guarnieri & Cie

Defendant: Vandevelde Eddy VOF

Re:

Reference for a preliminary ruling — Rechtbank van Koophandel te Brussel — Interpretation of Articles 28 EC, 29 EC and 30 EC — Whether security for costs and damages (*cautio judicatum solvi*) is an infringement of Community rules in relation to the free movement of goods

Operative part of the judgment

Article 34 TFEU must be interpreted as not precluding the legislation of a Member State from requiring the provision of security pending judgment, by a claimant of Monegasque nationality which has brought proceedings before one of the civil courts of that State against a national of that State in order to obtain payment of invoices relating to the delivery of goods assimilated to Community goods, although such a requirement is not imposed on nationals of that Member State.

⁽¹⁾ OJ C 267, 7.11.2009.