

Action brought on 18 June 2009 — Commission of the European Communities v Republic of Poland

(Case C-223/09)

(2009/C 233/03)

Language of the case: Polish

Parties

Applicant: Commission of the European Communities (represented by: O. Beynet and M. Kaduczak, Agents)

Defendant: Republic of Poland

Form of order sought

— declare that, by failing to adopt the laws, regulations and administrative provisions necessary to ensure the implementation of Directive 2005/89/EC of the European Parliament and of the Council of 18 January 2006 concerning measures to safeguard security of electricity supply and infrastructure investment,⁽¹⁾ or in any event by failing to inform the Commission that it had adopted such provisions, the Republic of Poland has failed to fulfil its obligations under that directive;

— order the Republic of Poland to pay the costs.

Pleas in law and main arguments

The period within which Directive 2005/89/EC had to be transposed expired on 24 February 2008. At the time when the present action was brought, the defendant had not adopted the measures necessary to transpose that directive, or in any event had not informed the Commission of such measures.

⁽¹⁾ OJ 2006 L 33, p. 22.

Action brought on 24 June 2009 — Commission of the European Communities v Republic of Poland

(Case C-228/09)

(2009/C 233/04)

Language of the case: Polish

Parties

Applicant: Commission of the European Communities (represented by: D. Triantafyllou and A. Stobiecka-Kuik, acting as Agents)

Defendant: Republic of Poland

Form of order sought

— declare that, by including the amount of the ‘opłata rejestracyjna’ (registration charge) within the taxable amount for

VAT levied in Poland on the supply, intra-Community acquisition or import of a passenger car, the Republic of Poland has failed to fulfil its obligations under Articles 78, 79, 83 and 86 of Directive 2006/112/EC of 28 November 2006 on the common system of value added tax;⁽¹⁾

— order the Republic of Poland to pay the costs.

Pleas in law and main arguments

The plea advanced in the present case concerns the Republic of Poland’s inclusion of the amount of the registration charge in the taxable amount for VAT when the supply, intra-Community acquisition and import of unregistered passenger cars take place in that Member State.

In the Commission’s view, there is a fundamental similarity between the Polish tax/charge at issue in the present case and the Danish tax/charge in Case C-98/05 *De Danske Bilimportører*. In that case, the Court held that the relevant tax/registration charge does not fall within the taxable amount for VAT.

The Commission takes the view that the operation of the Polish registration charge in the case of successive transactions concerning the same vehicle prior to its registration shows that it is in essence a registration tax/charge, and not a tax on sales as the Republic of Poland maintains. The taxable person can deduct the amount of the registration charge from the amount of tax chargeable. This means that ultimately, through the system of deduction of the tax paid previously, the tax/charge is levied only once.

The Commission does not concur with the Republic of Poland’s argument that the person liable for payment of the registration charge is the seller, the intra-Community acquirer or the importer of the vehicle and not the person in whose name the car is registered.

⁽¹⁾ OJ 2006 L 347, p. 1.

Reference for a preliminary ruling from the Najvyšší súd Slovenskej republiky (Slovakia) lodged on 3 July 2009 — Lesoochránárske Zoskupenie VLK v Ministerstvo životného prostredia Slovenskej republiky

(Case C-240/09)

(2009/C 233/05)

Language of the case: Slovak

Referring court

Najvyšší súd Slovenskej republiky

Parties to the main proceedings

Applicant: Lesoochránárske Zoskupenie VLK

Defendant: Ministerstvo životného prostredia Slovenskej republiky