

not insured under the insurance policy and when the victim, who was a passenger in the vehicle at the time of the accident, was insured to drive the vehicle himself but who had given permission to the driver to drive it.

2. The answer to the first question is not different depending on whether the insured victim was aware that the person to whom he gave permission to drive the vehicle was not insured to do so, whether he believed that the driver was insured or whether or not he had turned his mind to that question.

(¹) OJ C 346, 18.12.2010.

Judgment of the Court (First Chamber) of 1 December 2011 (reference for a preliminary ruling from the Unabhängiger Finanzsenat, Außenstelle Linz — Austria) — Immobilien Linz GmbH & Co. KG v Finanzamt Freistadt Rohrbach Urfahr

(Case C-492/10) (¹)

(Taxation — Directive 69/335/EEC — Indirect taxes — Raising of capital — Article 4(2)(b) — Transactions subject to capital duty — Increase in the assets of a company — Contribution made by a member — Absorption of losses by virtue of an undertaking given before the losses were sustained)

(2012/C 32/18)

Language of the case: German

Referring tribunal

Unabhängiger Finanzsenat, Außenstelle Linz

Parties to the main proceedings

Applicant: Immobilien Linz GmbH & Co. KG

Defendant: Finanzamt Freistadt Rohrbach Urfahr

Re:

Reference for a preliminary ruling — Unabhängiger Finanzsenat, Außenstelle Linz — Interpretation of Article 4(2)(b) of Council Directive 69/335/EEC of 17 July 1969 concerning indirect taxes on the raising of capital (OJ, English Special Edition 1969 (II), p. 412) — Transactions subject to capital duty — Increase in the assets of a capital company — Possible inclusion in those assets of an undertaking given by a public body, which is the sole member of that company, to absorb the company's losses

Operative part of the judgment

Article 4(2)(b) of Council Directive 69/335/EEC of 17 July 1969 concerning indirect taxes on the raising of capital, as amended by Council Directive 85/303/EEC of 10 June 1985, must be interpreted as meaning that the absorption by a member of a company's losses

pursuant to an undertaking given by the member before the losses were sustained, the sole purpose of which was to cover such losses, does not increase the assets of that company.

(¹) OJ C 13, 15.1.2011.

Judgment of the Court (Eighth Chamber) of 1 December 2011 — European Commission v French Republic

(Case C-515/10) (¹)

(Failure of a Member State to fulfil obligations — Directive 1999/31/EC — Decision 2003/33/EC — National legislation — Landfill for inert waste — Acceptance of asbestos-cement waste)

(2012/C 32/19)

Language of the case: French

Parties

Applicant: European Commission (represented by: G. Rozet and A. Marghelis, Agents, acting as Agents)

Defendant: French Republic (represented by: G. de Bergues and S. Menez, acting as Agents)

Re:

Failure of a Member State to fulfil its obligations — Incorrect transposition of Article 2(e), the first subparagraph of Article 3 and Article 6(d) of Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste (OJ 1999 L 182, p. 1) and the provisions of the Annex to Council Decision 2003/33/EC of 19 December 2002 establishing criteria and procedures for the acceptance of waste at landfills pursuant to Article 16 of and Annex II to Directive 1999/31/EC (OJ 2002 L 11, p. 27) — National legislation establishing a category of 'inert and hazardous' wastes, not in compliance with the directive — Landfill of asbestos-cement waste

Operative part of the judgment

The Court:

1. Declares that, by failing to adopt the laws, regulations and administrative provisions necessary to ensure that asbestos-cement waste is treated in suitable landfills, the French Republic has failed to fulfil its obligations under Article 2(e), the first subparagraph of Article 3 and Article 6(d) of Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste and the provisions of the Annex to Council Decision 2003/33/EC of 19 December 2002 establishing criteria and procedures for the acceptance of waste at landfills pursuant to Article 16 of and Annex II to Directive 1999/31.
2. Orders the French Republic to pay the costs.

(¹) OJ C 30, 29.1.2011.