

Action brought on 2 August 2010 — European Commission v Republic of Austria

(Case C-387/10)

(2010/C 328/20)

Language of the case: German

Parties

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

Defendant: Republic of Austria

Form of order sought

The European Commission claims that the Court should:

— declare that the Republic of Austria has failed to fulfil its obligations under Article 49 EC and Article 36 of the EEA Agreement by adopting and retaining provisions under which only national financial institutions or national business trustees may be appointed as tax representatives of investment or real property investment funds;

— order the Republic of Austria to pay the costs.

Pleas in law and main arguments

The Commission takes the view that provisions under which only national financial institutions or national business trustees may be appointed as tax representatives of investment or real property investment funds constitute an establishment requirement which restricts the freedom to provide services.

Contrary to the view taken by Austria, the disputed provisions are neither suitable for improving the quality of tax representation nor for protecting the interests of investors and the fiscal administration in proper compliance with tax obligations. It is thus not possible to discern a justification for the restriction on the freedom to provide services.

Action brought on 27 August 2010 — European Commission v French Republic

(Case C-428/10)

(2010/C 328/21)

Language of the case: French

Parties

Applicant: European Commission (represented by: G. Braun and L. de Schietere de Lophem, acting as Agent)

Defendant: French Republic

Form of order sought

— declare that, by failing to adopt all the laws, regulations and administrative provisions necessary to comply with Directive 2007/36/EC of the European Parliament and of the Council of 11 July 2007 on the exercise of certain rights of shareholders in listed companies⁽¹⁾ or, in any event, by not communicating them to the Commission, the French Republic has failed to fulfil its obligations under that directive;

— order French Republic to pay the costs.

Pleas in law and main arguments

The period for the transposition of Directive 2007/36/EC expired on 3 August 2009. On the date on which the present action was brought, the defendant had not yet taken all the measures necessary to transpose the directive or, in any event, it had not notified the Commission thereof.

⁽¹⁾ OJ 2007 L 184, p. 17.

Reference for a preliminary ruling from the Cour d'appel de Mons (Belgium) lodged on 13 September 2010 — Belgian State — SPF Finances v BLM SA

(Case C-436/10)

(2010/C 328/22)

Language of the case: French

Referring court

Cour d'appel de Mons

Parties to the main proceedings

Applicant: Belgian State — SPF Finances

Defendant: BLM SA