

Judgment of the Court (Third Chamber) of 18 July 2013 — Fédération internationale de football association (FIFA) v European Commission, Kingdom of Belgium, and United Kingdom of Great Britain and Northern Ireland

(Case C-205/11 P) ⁽¹⁾

(Appeals — Television broadcasting — Directive 89/552/EEC — Article 3a — Measures taken by the United Kingdom concerning events of major importance for the society of that Member State — Football World Cup — Decision declaring the measures compatible with European Union law — Statement of reasons — Articles 43 EC, 49 EC and 86 EC — Right to property)

(2013/C 260/05)

Language of the case: English

Parties

Appellant: Fédération internationale de football association (FIFA) (represented by: A. Barav and D. Reymond, avocats)

Other parties to the proceedings: European Commission (represented by: E. Montaguti and N. Yerrell, acting as Agents, and M. Gray, Barrister), Kingdom of Belgium (represented by: C. Pochet, J.-C. Halleux, acting as Agents, and A. Joachimowicz and J. Stuyck, advocaten), and United Kingdom of Great Britain and Northern Ireland (represented by: S. Ossowski and J. Beeko, acting as Agents, and T. de la Mare QC)

Re:

Appeal brought against the judgment of the General Court (Seventh Chamber) of 17 February 2011 in Case T-68/08 *Fédération Internationale de Football Association (FIFA) v Commission* dismissing an action for annulment of Commission Decision 2007/730/EC of 16 October 2007 declaring compatible with Community law measures taken by the United Kingdom pursuant to Article 3a(1) of Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities (OJ 2007 L 295, p. 12)

Operative part of the judgment

The Court:

1. Dismisses the appeal;
2. Orders the Fédération internationale de football association (FIFA) to pay the costs.

⁽¹⁾ OJ C 232, 6.8.2011.

Judgment of the Court (Sixth Chamber) of 18 July 2013 (request for a preliminary ruling from the Cour de cassation — Belgium) — État belge v Medicom SPRL (C-210/11), Maison Patrice Alard SPRL (C-211/11)

(Joined Cases C-210/11 and C-211/11) ⁽¹⁾

(Requests for a preliminary ruling — Sixth VAT Directive — Article 6(2), first paragraph, point (a) and Article 13(B)(b) — Right to deduction — Capital goods belonging to legal persons made partly available to their managers for private use — No rent payable in money, but taking into account of a benefit in kind for income tax purposes)

(2013/C 260/06)

Language of the case: French

Referring court

Cour de cassation

Parties to the main proceedings

Applicant: État belge

Defendants: Medicom SPRL (C-210/11), Maison Patrice Alard SPRL (C-211/11)

Re:

Requests for a preliminary ruling — Cour de cassation (Belgium) — Interpretation of Article 6(2), first paragraph, point (a) and Article 13(B)(b) 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 (OJ L 145, p. 1) — VAT exemption — Concept of supply of services in relation to immovable property — Use of part of immovable property forming part of the assets of the business for the private use of managers and their families, without there being any rent to be paid in money, but constituting a benefit in kind — No right to deduction

Operative part of the judgment

1. Point (a) of the first paragraph of Article 6(2) and Article 13(B)(b) 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, as amended by Council Directive 95/7/EC of 10 April 1995, must be interpreted as precluding the making available of part of immovable property belonging to a legal person to its manager for his private use, without there being provision for the beneficiaries of that arrangement to pay a rent in money by way of consideration for the use of that property, from constituting an exempted letting of immovable property within the meaning of that directive; the fact that the making available of that

property is deemed, under the relevant national income tax legislation, to be a benefit in kind stemming from the beneficiaries' performance of their corporate duties or under their contract of employment is of no import in that regard;

2. Point (a) of the first paragraph of Article 6(2) and Article 13(B)(b) of the Sixth Directive 77/388, as amended by Directive 95/7, must be interpreted as meaning that, in situations such as those at issue in the main proceedings, the issue whether or not the making available of all or part of the property in its entirety forming part of the assets of the business to managers, administrators or members of that business is directly linked to the operation of the business is of no relevance for the determination of whether that making available comes within the exemption provided for in the latter provision.

⁽¹⁾ OJ C 211, 16.7.2011.

Judgment of the Court (Third Chamber) of 18 July 2013 — European Commission v Kingdom of Denmark

(Case C-261/11) ⁽¹⁾

(Failure of a Member State to fulfil obligations — Freedom of establishment — Article 49 TFEU — Article 31 of the EEA Agreement — Restrictions — Tax legislation — Transfer of assets to another Member State — Immediate taxation of unrealised capital gains)

(2013/C 260/07)

Language of the case: Danish

Parties

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

Defendant: Kingdom of Denmark (represented by: C. Vang and V. Pasternak Jørgensen, acting as Agents)

Interveners in support of the defendant: Federal Republic of Germany (represented by: K. Petersen and T. Henze, acting as Agents), Kingdom of Spain (represented by: A. Rubio González, acting as Agent), Kingdom of the Netherlands (represented by: C. Schillemans, C. Wissels and J. Langer, acting as Agents), Portuguese Republic (represented by: L. Inez Fernandes, acting as Agent), Republic of Finland (represented by: M. Pere, acting as Agent), Kingdom of Sweden (represented by: A. Falk and U. Persson, acting as Agents)

Re:

Failure of a Member State to fulfil obligations — Infringement of Article 49 TFEU and Article 31 EEA — Tax provisions laying down immediate taxation on exit for companies transferring assets to another Member State but not laying down an equivalent tax on transfers of assets within national territory

Operative part of the judgment

The Court:

1. Declares that, by adopting and maintaining in force Paragraph 8(4) of the Law on taxation of the income of share companies and other matters (Lov om indkomstbeskatning af aktieselskaber m.v., lovbekendtgørelse nr. 1376, 7 December 2010), concerning the immediate taxation of the income of share companies, and consequently a tax system providing for the immediate taxation of unrealised capital gains relating to a transfer of assets by a company established in Denmark to another Member State of the European Union or to a non-member country party to the Agreement on the European Economic Area of 2 May 1992, the Kingdom of Denmark has failed to fulfil its obligations under Article 49 TFEU and Article 31 of the EEA Agreement;
2. Orders the Kingdom of Denmark to pay the costs;
3. Orders the Federal Republic of Germany, the Kingdom of Spain, the Kingdom of the Netherlands, the Portuguese Republic, the Republic of Finland and the Kingdom of Sweden to bear their own costs.

⁽¹⁾ OJ C 238, 13.8.2011.

Judgment of the Court (Fifth Chamber) of 18 July 2013 — European Commission v Republic of Poland

(Case C-313/11) ⁽¹⁾

(Failure of a Member State to fulfil obligations — Regulation (EC) No 1829/2003 — Animal feed — Genetically modified feed — Production, placing on the market or use — National prohibition not yet in force)

(2013/C 260/08)

Language of the case: Polish

Parties

Applicant: European Commission (represented by: D. Bianchi and A. Szmytkowska, acting as Agents)

Defendant: Republic of Poland (represented by: M. Szpunar, acting as Agent)

Re:

Failure of a Member State to fulfil obligations — Infringement of Articles 16(5), 19, 20 and 34 of Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed (OJ 2003 L 268, p. 1) — National legislation prohibiting any production, placing on the market or use of genetically modified feed