

Judgement of the Court (Second Chamber) of 21 November 2013 (request for a preliminary ruling from the Hoge Raad der Nederlanden (Netherlands)) — X v Minister van Financiën

(Case C-302/12) ⁽¹⁾

(Request for a preliminary ruling — Article 43 EC — Motor vehicles — Use in a Member State of a private motor vehicle registered in another Member State — Taxation of that vehicle in the first Member State when it was first used on the national road network and also in the second Member State when it was registered — Vehicle used by the citizen concerned for both private use and for going, from the Member State of origin, to the place of work situated in the first Member State)

(2014/C 39/09)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Appellant: X

Respondent: Minister van Financiën

Re:

Request for a preliminary ruling — Hoge Raad der Nederlanden — Interpretation of Articles 21 TFEU, 45 TFEU, 49 TFEU and 56 TFEU — National legislation imposing a registration tax when a motor vehicle is first used on the national road network — Tax owed by a person residing in two Member States, including the Member State concerned, and using her motor vehicle there on a permanent basis — Vehicle registered in the other Member State — Exercise of powers of taxation by both Member States.

Operative part of the judgment

Article 43 EC must be interpreted as not precluding legislation of a Member State under which a motor vehicle, which is registered and is already the subject of taxation as a result of its registration in another Member State, is the subject of a tax when it is first used on the national road network, where that vehicle is intended, essentially, to be actually used on a long-term basis in both those Member States or is, in fact, used in that manner, as long as that tax is not discriminatory.

⁽¹⁾ OJ C 287, 22.9.2012.

Judgment of the Court (Fifth Chamber) of 28 November 2013 — Council of the European Union v Manufacturing Support & Procurement Kala Naft Co., Tehran, European Commission

(Case C-348/12 P) ⁽¹⁾

(Appeal — Restrictive measures against the Islamic Republic of Iran with the aim of preventing nuclear proliferation — Measures directed against the Iranian oil and gas industry — Freezing of funds — Obligation to state reasons — Obligation to substantiate the measure)

(2014/C 39/10)

Language of the case: French

Parties

Appellant: Council of the European Union (represented by: M. Bishop and R. Liudvinaviciute-Cordeiro, acting as Agents)

Other parties to the proceedings: Manufacturing Support & Procurement Kala Naft Co., Tehran (represented by: F. Esclatine and S. Perrotet, avocats), European Commission (represented by M. Konstantinidis and E. Cujo, acting as Agents)

Re:

Appeal lodged against the judgment of the General Court in Case T-509/10 *Manufacturing Support & Procurement Kala Naft*, by which the General Court annulled, in so far as they concern Manufacturing Support & Procurement Kala Naft Co., Tehran, Council Decision 2010/413/CFSP of 26 July 2010 concerning restrictive measures against Iran and repealing Common Position 2007/140/CFSP (OJ 2010 L 195, p. 39); Council Implementing Regulation (EU) No 668/2010 of 26 July 2010 implementing Article 7(2) of Regulation (EC) No 423/2007 concerning restrictive measures against Iran (OJ 2010 L 195, p. 25); Council Decision 2010/644/CFSP of 25 October 2010 amending Decision 2010/413 (OJ 2010 L 281, p. 81); Council Regulation (EU) No 961/2010 of 25 October 2010 on restrictive measures against Iran and repealing Regulation No 423/2007 (OJ 2010 L 281, p. 1) — Common foreign and security policy — Restrictive measures adopted against Iran with the aim of preventing nuclear proliferation — List of persons, bodies and entities to which the freezing of funds applies — Errors of law — Admissibility — Governmental organisation status of the entity concerned — Ability of such an organisation to rely on the protection of fundamental rights — Burden of proof

Operative part of the judgment

The Court:

1. Sets aside the judgment of the General Court of the European Union of 25 April 2012 in Case T-509/10 *Manufacturing Support & Procurement Kala Naft v Council*;
2. Dismisses the action for annulment brought by Manufacturing Support & Procurement Kala Naft Co., Tehran;

3. *Orders Manufacturing Support & Procurement Kala Naft Co., Tehran to bear its own costs and to pay those incurred by the Council of the European Union in relation both to the proceedings at first instance and to the appeal proceedings;*
4. *Orders the European Commission to bear its own costs both of the proceedings at first instance and of the appeal proceedings.*

(¹) OJ C 287, 22.9.2012.

Judgment of the Court (Second Chamber) of 21 November 2013 (request for a preliminary ruling from the First-tier Tribunal (Tax Chamber) — United Kingdom) — Dixons Retail plc v Commissioners for Her Majesty's Revenue and Customs

(Case C-494/12) (¹)

(Directive 2006/112/EC — Value added tax — Supply of goods — Concept — Fraudulent use of a bank card)

(2014/C 39/11)

Language of the case: English

Referring court

First-tier Tribunal (Tax Chamber)

Parties to the main proceedings

Appellant: Dixons Retail plc

Respondents: Commissioners for Her Majesty's Revenue and Customs

Re:

Request for a preliminary ruling — First-tier Tribunal (Tax Chamber) — Interpretation of Articles 14(1) and 73 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1) — Concept of 'supply of goods' — Supply following a purchase made by means of the unauthorised and fraudulent use of a credit card

Operative part of the judgment

Articles 2(1), 5(1) and 11A(1)(a) 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 and Articles 2(1)(a), 14(1) and 73 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as meaning that, in circumstances such as those at issue in the main proceedings, the physical transfer of goods to a purchaser who fraudu-

lently uses a bank card as a means of payment constitutes a 'supply of goods' within the meaning of Articles 2(1) and 5(1) of Directive 77/388 and Articles 2(1)(a) and 14(1) of Directive 2006/112 and that, in the context of such a transfer, the payment made by a third party, under an agreement concluded between it and the supplier of those goods by which the third party has undertaken to pay the supplier for the goods sold by the latter to purchasers using such a card as a means of payment, constitutes 'consideration' within the meaning of Article 11A(1)(a) of Directive 77/388 and Article 73 of Directive 2006/112.

(¹) OJ C 26, 26.1.2013.

Request for a preliminary ruling from the Hoge Raad der Nederlanden lodged on 21 November 2013 — Staatssecretaris van Financiën, other party: Fiscale Eenheid X NV cs

(Case C-595/13)

(2014/C 39/12)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Appellant in cassation: Staatssecretaris van Financiën

Other party: Fiscale Eenheid X NV cs

Questions referred

1. Is Article 13B(d)(6) of the Sixth Directive (¹) to be interpreted as meaning that a company which has been set up by more than one investor for the sole purpose of investing the assets assembled in immovable property may be regarded as a special investment fund within the meaning of that provision?
2. If the answer to Question 1 is in the affirmative: is Article 13B(d)(6) of the Sixth Directive to be interpreted as meaning that the term 'management' also covers the actual management of the company's immovable property, which the company has entrusted to a third party?

(¹) 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 1977 L 145, p. 1).