

Parties to the main proceedings

Applicants: Eurogate Distribution GmbH (C-226/14), DHL Hub Leipzig GmbH (C-228/14)

Defendants: Hauptzollamt Hamburg-Stadt (C-226/14), Hauptzollamt Braunschweig (C-228/14)

Operative part of the judgment

1. Article 7(3) 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 2004/66/EC of 26 April 2004, must be interpreted as meaning that value added tax on goods which have been re-exported as non-Community goods is not due where those goods have not been removed from the customs arrangement provided for in that provision at the date of their re-exportation but were removed from that arrangement as a result of their re-exportation, and that is the case even where a customs debt is incurred exclusively on the basis of Article 204 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code, as amended by Regulation (EC) No 648/2005 of the European Parliament and of the Council of 13 April 2005.
2. Article 236(1) of Regulation No 2913/92, as amended by Regulation No 648/2005, read in conjunction with the provisions 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 a situation such as that at issue in the main proceedings, since value added tax on goods which have been re-exported as non-Community goods is not due where those goods have not been removed from the customs arrangement provided for in Article 61 of that directive, and that is the case even where a customs debt is incurred exclusively on the basis of Article 204 of Regulation No 2913/92, as amended by Regulation No 648/2005, nobody is liable for payment of the value added tax. Article 236 of Regulation No 2913/92 must be interpreted as not being applicable in situations relating to the repayment of value added tax.

⁽¹⁾ OJ C 303, 8.9.2014.

Judgment of the Court (First Chamber) of 2 June 2016 — European Commission v Kingdom of the Netherlands

(Case C-233/14) ⁽¹⁾

(Failure of a Member State to fulfil obligations — Articles 18 TFEU, 20 TFEU and 21 TFEU — Citizenship of the Union — Right to move and reside freely — Discrimination on grounds of nationality — Financial support for travel costs awarded to national students — Directive 2004/38/EC — Article 24(2) — Derogation from the principle of equal treatment — Maintenance aid for studies consisting in student grants or student loans — Scope — Formal requirements of the application initiating proceedings — Coherent statement of the pleas in law)

(2016/C 287/04)

Language of the case: Dutch

Parties

Applicant: European Commission (represented by: M. van Beek and C. Gheorghiu, acting as Agents)

Defendant: Kingdom of the Netherlands (represented by: M. Bulterman and C. Schillemans, acting as Agents)

Operative part of the judgment

The Court:

1. *Dismisses the action;*
2. *Orders the European Commission to pay the costs.*

⁽¹⁾ OJ C 245, 28.7.2014.

Judgment of the Court (First Chamber) of 2 June 2016 (request for a preliminary ruling from the Högsta förvaltningsdomstolen — Sweden) — Pensioenfonds Metaal en Techniek v Skatteverket

(Case C-252/14) ⁽¹⁾

(Reference for a preliminary ruling — Free movement of capital — Article 63 TFEU — Taxation of pension funds' income — Difference in treatment of resident and non-resident pension funds — Resident pension funds subject to lump sum taxation on the basis of a notional yield — Withholding tax applied to dividends received by non-resident pension funds — Whether comparable)

(2016/C 287/05)

Language of the case: Swedish

Referring court

Högsta förvaltningsdomstolen

Parties to the main proceedings

Applicant: Pensioenfonds Metaal en Techniek

Defendant: Skatteverket

Operative part of the judgment

Article 63 TFEU must be interpreted as:

- *not precluding national legislation under which the dividends distributed by a resident company are subject to a tax levied at source (a withholding tax) where those dividends are paid to a non-resident pension fund and, where those dividends are paid to a resident pension fund, to a tax calculated as a definitive lump sum and on a notional yield, which, over time, is intended to correspond to the normal taxation of all yields on capital under the general law regime;*
- *nevertheless precluding non-resident pension funds being prevented from taking into account any professional expenses directly linked to the receipt of dividends, where the calculation method for the tax base of resident pension funds allows them to be taken into account, that being a matter for the referring court to determine.*

⁽¹⁾ OJ C 235, 21.7.2014.