

The applicant claims that the Court should:

1. declare that, by providing that VAT exemption for services closely linked to sport or physical education applies only to private bodies whose membership fees do not exceed a specified amount, the Kingdom of Spain has infringed Article 13 (A) (1) (m) of the Sixth VAT Directive (77/388/EEC)⁽¹⁾;
2. order the Kingdom of Spain to pay the costs.

Pleas in law and main arguments

The restriction imposed by the Spanish Law on exemptions⁽²⁾ does not appear in the wording of the Sixth Directive and must therefore be considered to be an infringement of Article 13. The Member States cannot make the exemption provided for in Article 13 (m) subject to conditions other than those laid down in Article 13 (2). Neither does the Spanish VAT legislation observe the aim set down in the eighth recital of the preamble to the Sixth Directive, since the imposition of any condition not provided for in Article 13 is contrary to the aim of drawing up a common list of exemptions so that the Communities' own resources may be collected in a uniform manner in all the Member States. The Spanish Law thus infringes not only Article 13 of the Sixth Directive but also the objectives of the common system of VAT.

⁽¹⁾ Sixth Directive 77/388/EEC (OJ No L 145, 13. 6. 1977, p. 1).

⁽²⁾ Law No 37/1992 as amended by Law No 42/1994.

Reference for a preliminary ruling from the Hessisches Finanzgericht by order of that court of 26 March 1996 in the case of Hartmut Simon v. Hauptzollamt Frankfurt am Main

(Case C-125/96)
(96/C 158/25)

Reference has been made to the Court of Justice of the European Communities by an order of the Hessisches Finanzgericht (Finance Court, Hesse) of 26 March 1996, which was received at the Court Registry on 18 April 1996, for a preliminary ruling in the case of Hartmut Simon v. Hauptzollamt (Principal Customs Office) Frankfurt am Main, on the following questions:

In Article 15 (4) of Commission Regulation (EEC) No 1546/88 of 3 June 1988⁽¹⁾ is 'levy amount due' to be interpreted as the amount of additional levy on milk that would be payable if the figures used to determine the levies payable on deliveries in excess of the delivery reference

quantity had been compiled correctly and had formed the basis of the purchaser's calculation of the additional levy?

Or does that phrase refer only to the amount derived from the figures, whether correct or not, declared by the purchaser and forming the basis of the calculation of the additional levy?

If the first interpretation is correct, the question arises whether the entire amount of additional levy lawfully due is payable on the date specified in the Regulation (at that time 30 June), so that, in the event of part payment resulting from the purchaser's figures being too low, the person liable to pay the additional levy (in Germany the milk producer) must pay, from 1 July of that year, interest charged under national law on the balance.

⁽¹⁾ OJ No L 139, 4. 6. 1988, p. 12.

Reference for a preliminary ruling from the Tribunale di Genova — Prima Sezione Civile — by order of that court of 1 February 1996 in the case of Trinity Alimentari Italia SPA v. Ministero delle Finanze dello Stato

(Case C-128/96)
(96/C 158/26)

Reference has been made to the Court of Justice of the European Communities by order of the Tribunale di Genova — Prima Sezione Civile — (District Court, Genoa, First Civil Section) of 1 February 1996, received at the Court Registry on 22 April 1996, for a preliminary ruling in the case of Trinity Alimentari Italia SPA v. Ministero delle Finanze dello Stato on questions identical to those in Joined Cases C-47/95 and others⁽¹⁾.

⁽¹⁾ OJ No C 119, 13. 5. 1995, p. 5.

Removal from the register of Case C-82/95⁽¹⁾

(96/C 158/27)

By order of 9 February 1996 the President of the Fifth Chamber of the Court of Justice of the European Communities ordered the removal from the register of Case C-82/95: Commission of the European Communities v. Hellenic Republic.

⁽¹⁾ OJ No C 137, 3. 6. 1995.