

5. Does the national court (sitting in interlocutory proceedings) have jurisdiction, in circumstances such as those described in Joined Cases C-143/88 and C-92/89 Zuckerfabrik Süderdithmarschen and Others and subsequent cases, to make an interim order requiring a Member State not to participate (either actively or passively) in the decision-making process within the Council of Ministers in the context of the second paragraph of Article 136?
6. On the assumption that assessment of the circumstances referred to in Question 5 is a matter for the Court of Justice, rather than the national court, are the circumstances described in the judgment of 17 October 1997 — page 7, first full paragraph, ('On the basis of various factors...') up to and including the second full paragraph on page 8 (ending '... excessively detrimental to the interests of the Community') — also in the light of the further reasoning in that judgment and in the judgment of 6 October 1997, such as to justify the injunction referred to in Question 5?
7. Does Article 5 of the EC Treaty — and more specifically the principle of Community cooperation with other Member States contained therein — preclude such an injunction by the court concerning the future participation of that Member State in the decision-making process in that context, if
- (a) the Member State voted in favour of the Council proposal at issue, notwithstanding that it was aware that interlocutory proceedings were in progress at the time concerning its voting intentions in the European Council of Ministers and
  - (b) those (initial) interlocutory proceedings culminated in such an injunction a few hours after the Member State had voted in favour of the proposal?

8. Is the answer to Question 7 different according to whether or not the content of the proposed decision is consistent with higher rules of Community law?

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Reference for a preliminary ruling from the Tribunal de Première Instance, Nivelles (9th Chamber), by judgment of that court of 3 November 1997 in the case of Belgocodex

**SA v. Belgian State**

(Case C-381/97)

(97/C 387/21)

Reference has been made to the Court of Justice of the European Communities by a judgment of the Tribunal de Première Instance (Court of First Instance), Nivelles (9th Chamber), of 3 November 1997, which was received at the Court Registry on 7 November 1997, for a preliminary ruling in the case of Belgocodex SA v. Belgian State on the following questions:

Does Article 2 of the First Council Directive 67/227/EEC of 11 April 1967 <sup>(1)</sup> on the harmonisation of legislation of Member States concerning turnover taxes, which establishes the principle of a common system of value added tax, prevent a Member State — in this case Belgium — which has availed itself of the possibility provided for by Article 13 (C) of the Sixth Council Directive 77/388/EEC of 17 May 1977 <sup>(2)</sup> on the harmonization of legislation of Member States concerning turnover taxes — Common system of value added tax: uniform basis of assessment, and has thus given its taxpayers the right to opt for taxation of certain lettings of immovable property, from abolishing that right of option and thus reintroducing the exemption to its full extent in subsequent legislation?

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<sup>(1)</sup> OJ, English Special Edition 1967, p. 14; EE 09 FI, p. 3.

<sup>(2)</sup> OJ L 145, 13. 6. 1977, p. 1; EE 09 FI, p. 54.