

Action brought on 17 September 1999 by the Commission of the European Communities against the French Republic

(Case C-345/99)

(1999/C 333/40)

An action against the French Republic was brought before the Court of Justice on 17 September 1999 by the Commission of the European Communities, represented by Enrico Traversa, Legal Adviser, and H el ene Michard, of its Legal Service, acting as Agents, with an address for service in Luxembourg at the office of Carlos G omez de la Cruz, Wagner Centre, Kirchberg.

The Commission of the European Communities claims that the Court should:

- declare that, by applying to vehicles used by taxable persons carrying on the activity of driving instructors the condition that, in order for such persons to be able to exercise their right to deduct the VAT charged on their initial acquisition of those vehicles, the vehicles in question must be used exclusively for that activity, the French Republic has failed to fulfil its obligations under Article 17(2) of the Sixth Council Directive of 17 May 1977⁽¹⁾;
- order the French Republic to pay the costs.

Pleas in law and main arguments

Article 17(6) of the Sixth Directive authorises Member States to retain all the exclusions relating to the deductibility of tax provided for under their national laws on the date of entry into force of that directive. On the date in question, the French legislation excluded from deduction all private vehicles, with the sole exception of vehicles used for public passenger transport.

With effect from 1 January 1993, the French legislation introduced a right of deduction in respect of vehicles used for driving instruction purposes. However, that right is restricted to vehicles used exclusively for that activity.

According to Article 17(2) of the directive, the right to deduct must arise where the goods concerned are used by the taxable person for the purposes of his taxable transactions; that right cannot be restricted to goods used exclusively for the activity in question.

A Member State may not establish its own criteria for application of the deduction by limiting the scope of a national exclusion of the right to deduct.

⁽¹⁾ Council Directive 77/388/EEC of 17.5.1977 (OJ L 145 of 13.6.1977, p. 1.)

Action brought on 17 September 1999 by the Commission of the European Communities against the Grand Duchy of Luxembourg

(Case C-346/99)

(1999/C 333/41)

An action against the Grand Duchy of Luxembourg was brought before the Court of Justice of the European Communities on 17 September 1999 by the Commission of the European Communities, represented by Richard B. Wainwright, Principal Legal Adviser, and Olivier Couvert-Cast era, a national civil servant on secondment to its Legal Service, acting as Agents, with an address for service in Luxembourg at the office of Carlos G omez de la Cruz, Wagner Centre, Kirchberg.

The Commission of the European Communities claims that the Court should:

- declare that, by failing to adopt the laws, regulations and administrative measures necessary in order to comply with Commission Directive 96/65/EC of 11 October 1996 adapting to technical progress for the fourth time Council Directive 88/379/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of dangerous preparations and modifying Directive 91/442/EEC on dangerous preparations the packaging of which must be fitted with child-resistant fastenings⁽¹⁾, or by failing in any event to inform the Commission of the measures adopted, the Grand Duchy of Luxembourg has failed to fulfil its obligations under that directive;
- order the Grand Duchy of Luxembourg to pay the costs.

Pleas in law and main arguments

On the expiry of the time-limit for transposition, namely 31 May 1998, the Grand Duchy of Luxembourg had not yet implemented the provisions necessary to comply with the directive.

⁽¹⁾ OJ L 265 of 18.10.1996, p. 15.

Action brought on 20 September 1999 by the Commission of the European Communities against Ireland

(Case C-347/99)

(1999/C 333/42)

An action against Ireland was brought before the Court of Justice of the European Communities on 20 September 1999 by the Commission of the European Communities, represented by Marie Wolfcarius, Legal Adviser, acting as agent, with an address for service in Luxembourg at the office of Carlos G omez de la Cruz, also of the Legal Service of the Commission, Wagner Centre, Kirchberg, Luxembourg.