

JUDGMENT OF THE COURT

(Fifth Chamber)

of 26 September 2000

in Case C-134/99 (reference for a preliminary ruling from the Supremo Tribunal Administrativo, Portugal): IGI — Investimentos Imobiliários SA v Fazenda Pública⁽¹⁾

(Directive 69/335/EEC — Indirect taxes on the raising of capital — Charges for entries in a national register of legal persons — Duties paid by way of fees or dues)

(2000/C 335/26)

(Language of the case: Portuguese)

(Provisional translation; the definitive translation will be published in the European Court Reports)

In Case C-134/99: reference to the Court under Article 177 of the EC Treaty (now Article 234 EC) from the Supremo Tribunal Administrativo (Supreme Administrative Court) for a preliminary ruling in the proceedings pending before that court between IGI — Investimentos Imobiliários SA and Fazenda Pública in the presence of: Ministério Público — on the interpretation of Articles 4, 10 and 12(1) of Council Directive 69/335/EEC of 17 July 1969 concerning indirect taxes on the raising of capital (O), English Special Edition 1969 (II), p. 412), as amended by Council Directive 85/303/EEC of 10 June 1985 (OJ 1985 L 156, p. 23) — the Court (Fifth Chamber), composed of: D.A.O. Edward, President of the Chamber, L. Sevón, P. Jann, H. Ragnemalm (Rapporteur) and M. Wathelet, Judges; G. Cosmas, Advocate General; R. Grass, Registrar, has given a judgment on 26 September 2000, in which it has ruled:

1. Council Directive 69/335/EEC of 17 July 1969 concerning indirect taxes on the raising of capital, as amended by Council Directive 85/303/EEC of 10 June 1985, must be interpreted as meaning that charges, such as those at issue in the main proceedings, which are levied for entering an increase in the share capital of a capital company in a national register of legal persons constitute a tax for the purposes of the directive.
2. Charges payable for entering an increase in the share capital of a capital company in a national register of legal persons are, where they amount to a tax for the purposes of Directive 69/335, as amended by Directive 85/303, in principle prohibited under Article 10(c) thereof.
3. 'Fees or dues' within the meaning of Article 12(1)(e) of Directive 69/335, as amended by Directive 85/303, do not cover charges levied for entering an increase in the share capital of a capital company in a national register of legal persons, such as the charges at issue in the main proceedings, the amount of which increases in direct proportion to the share capital raised and in respect of which there is no upper limit.

4. Article 10 of Directive 69/335, as amended by Directive 85/303, creates rights on which individuals may rely in proceedings before the national courts.

⁽¹⁾ OJ C 188 of 3.7.1999.

JUDGMENT OF THE COURT

(Fifth Chamber)

of 26 September 2000

in Case C-408/99: Commission of the European Communities v Ireland⁽¹⁾

(Failure by a Member State to fulfil its obligations — Directives 94/55/EC and 96/86/EC — Failure to transpose into national law within the period prescribed)

(2000/C 335/27)

(Language of the case: English)

In Case C-408/99: Commission of the European Communities (Agent: M. Wolfcarius) v Ireland (Agent: M.A. Buckley) — application for a declaration that by failing to adopt the laws, regulations or administrative provisions necessary to comply with Council Directive 94/55/EC of 21 November 1994 on the approximation of the laws of the Member States with regard to the transport of dangerous goods by road (OJ 1994 L 319, p. 7) and Commission Directive 96/86/EC of 13 December 1996 adapting to technical progress Directive 94/55 (OJ 1996 L 335, p. 43), or in any event by failing to inform the Commission of those measures, Ireland has failed to fulfil its obligations under those Directives — the Court (Fifth Chamber), composed of: D.A.O. Edward, President of the Chamber, L. Sevón, P.J.G. Kapteyn, H. Ragnemalm (Rapporteur) and M. Wathelet, Judges; A. Saggio, Advocate General; R. Grass, Registrar, has given a judgment on 26 September 2000, in which it:

1. Declares that, by failing to adopt within the period prescribed the laws, regulations or administrative provisions necessary to comply with Council Directive 94/55/EC of 21 November 1994 on the approximation of the laws of the Member States with regard to the transport of dangerous goods by road and Commission Directive 96/86/EC of 13 December 1996 adapting to technical progress Directive 94/55, Ireland has failed to fulfil its obligations under those Directives;