JUDGMENT OF THE COURT

(Fifth Chamber)

21 March 2002

in Case C-174/00 (Reference for a preliminary ruling from the Hoge Raad der Nederlanden): Kennemer Golf & Country Club v Staatssecretaris van Financiën [1]

(Sixth VAT Directive — Article 13A(1)(m) — Exempt transactions — Services connected with the practice of sport — Non-profit-making organisation)

(2002/C 118/17)

(Language of the case: Dutch)

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

In Case C-174/00: Reference to the Court under Article 177 of the EC Treaty (now Article 234 EC) by Hoge Raad der Nederlanden (Netherlands) for a preliminary ruling in the proceedings pending before that court between Kennemer Golf & Country Club and Staatssecretaris van Financiën, on the interpretation of Article 13A(1)(m) of the Sixth Council Directive 77/388/EC 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 (OJ 1977 L 145, p. 1), the Court (Fifth Chamber), composed of: P. Jann (Rapporteur), President of the Chamber, S. von Bahr and C.W.A. Timmermans, Judges; F.G. Jacobs, Advocate General; L. Hewlett, Administrator, for the Registrar, has given a judgment on 21 March 2002, in which it has ruled:

1. *Article 13A(1)(m) of the 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 is to be interpreted as meaning that the categorisation of an organisation as 'non-profit-making' must be based on all the organisation's activities.*

2. *Article 13A(1)(m) of Directive 77/388 is to be interpreted as meaning that an organisation may be categorised as 'non-profit-making' even if it systematically seeks to achieve surpluses which it then uses for the purposes of the provision of its services. The first part of the optional condition set out in the first indent of Article 13A(2)(a) of Directive 77/388 is to be interpreted in the same way.*

3. *Article 2(1) of Directive 77/388 is to be interpreted as meaning that the annual subscription fees of the members of a sports association such as that concerned in the main proceedings can constitute the consideration for the services provided by the association, even though members who do not use or do not regularly use the association's facilities must still pay their annual subscription fees.*

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[1] OJ C 192 of 8.7.2000.

JUDGMENT OF THE COURT

(Sixth Chamber)

19 March 2002

in Case C-224/00: Commission of the European Communities v Italian Republic [1]

(Failure by a Member State to fulfil its obligations — Article 6 of the EC Treaty (now, after amendment, Article 12 EC) — Difference in treatment of persons contravening the highway code according to the place of registration of their vehicle — Proportionality)

(2002/C 118/18)

(Language of the case: Italian)

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

In Case C-224/00, Commission of the European Communities (Agents: C. O'Reilly and G. Bisogni) v Italian Republic (Agent: U. Leanza, assisted by O. Fiumara): Application for a declaration that, by maintaining in force a legislative rule (Article 207 of the Italian highway code) providing for different and disproportionate treatment of offenders according to the place of registration of their vehicle, the Italian Republic has failed to fulfil its obligations under Article 6 of the EC Treaty (now, after amendment, Article 12 EC), the Court (Sixth Chamber), composed of: F. Macken, President of the Chamber, N. Colneric, R. Schintgen, V. Skouris (Rapporteur) and J.N. Cunha Rodrigues, Judges; C. Stix-Hackl, Advocate General; R. Grass, Registrar, has given a judgment on 19 March 2002, in which it:

1. *Declares that, by maintaining in force, in Article 207 of the Italian highway code, a disproportionate difference in treatment between offenders based on the place of registration of their vehicles, the Italian Republic has failed to fulfil its obligations under Article 6 of the EC Treaty (now, after amendment, Article 12 EC);*

2. *Orders the Italian Republic to pay the costs.*

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(1) OJ C 247 of 26.8.2000.

JUDGMENT OF THE COURT

19 February 2002

in Case C-256/00 (Reference for a preliminary ruling from the Cour d'appel de Bruxelles): Besix SA v Wasserreinigungsbau Alfred Kretzschmar GmbH & Co. KG (WABAG), Planungs- und Forschungsgesellschaft Dipl. Ing. W. Kretzschmar GmbH & Co. KG (Plafog) (1)

(Brussels Convention — Article 5(1) — Jurisdiction in matters relating to a contract — Place of performance of the obligation in question — Obligation not to do something, applicable without geographical limit — Undertakings given by two companies not to bind themselves to other partners when tendering for a public contract — Application of Article 2)

(2002/C 118/19)

(Language of the case: French)

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

In Case C-256/00: Reference to the Court under the Protocol of 3 June 1971 on the interpretation by the Court of Justice of the Convention of 27 September 1968 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters by the Cour d'Appel de Bruxelles (Belgium) for a preliminary ruling in the proceedings pending before that court between Besix SA and Wasserreinigungsbau Alfred Kretzschmar GmbH & Co. KG (WABAG), Planungs- und Forschungsgesellschaft Dipl. Ing. W. Kretzschmar GmbH & Co. KG (Plafog), on the interpretation of Article 5(1) of the aforementioned Convention of 27 September 1968 (OJ 1972 L 299, p. 32), as amended by the Convention of 9 October 1978 on the Accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland (OJ 1978 L 304, p. 1 and — amended version - p. 77), the Court, composed of: G.C. Rodríguez Iglesias, President, P. Jann, F. Macken and N. Colneric (Presidents of Chambers), A. La Pergola, J.P. Puissochet, M. Wathelet, R. Schintgen (Rapporteur) and V. Skouris, Judges; S. Alber, Advocate General; R. Grass, Registrar, has given a judgment on 19 February 2002, in which it has ruled:

The special jurisdictional rule in matters relating to a contract, laid down in Article 5(1) of the Convention of 27 September 1968 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters, as amended by the Convention of 9 October 1978 on the Accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland, is not applicable where, as in the present case, the place of performance of the obligation in question cannot be determined because it consists in an undertaking not to do something which is not subject to any geographical limit and is therefore characterised by a multiplicity of places for its performance. In such a case, jurisdiction can be determined only by application of the general criterion laid down in the first paragraph of Article 2 of that Convention.

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(1) OJ C 233 of 12.8.2000.

JUDGMENT OF THE COURT

(Fifth Chamber)

21 March 2002

in Case C-267/00 (Reference for a preliminary ruling from the High Court of Justice (England & Wales), Queen's Bench Division (Crown Office)): Commissioners of Customs and Excise v Zoological Society of London (1)

(Sixth VAT Directive — Article 13A(2)(a), second indent — Exempt transactions — Bodies managed and administered on a voluntary basis)

(2002/C 118/20)

(Language of the case: English)

In Case C-267/00: Reference to the Court under Article 234 EC by the High Court of Justice of England and Wales, Queen's