

2. Article 13(B)(a) of the Sixth Directive 77/388, under which insurance transactions are exempt from value added tax, does not preclude, in the case of a tax on insurance premiums such as that at issue in the main proceedings, the introduction of a special rate which is identical to the standard rate of value added tax, since that tax is compatible with Article 33 of the Sixth Directive 77/388, so that the procedure provided for in Article 27 of that directive, which obliges any Member State wishing to introduce special measures for derogation from that directive to seek prior authorisation from the Council of the European Union, does not have to be complied with before the introduction of that rate.

(¹) OJ C 303, 27.10.2001.

JUDGMENT OF THE COURT

(Sixth Chamber)

of 29 April 2004

in Case C-338/01: Commission of the European Communities v Council of the European Union (¹)

(Directive 2001/44/EC — Choice of legal basis)

(2004/C 118/21)

(Language of the case: English)

In Case C-338/01: Commission of the European Communities (Agent: R. Lyal), with an address for service in Luxembourg, supported by European Parliament (Agents: R. Passos and A. Baas), with an address for service in Luxembourg, v Council of the European Union (Agents: M. Sims-Robertson and F. Florindo Gijón), supported by Ireland (Agents: D. O'Hagan, assisted by E. Fitzsimons SC, K. Maguire BL and D. Moloney BL), with an address for service in Luxembourg, the Grand Duchy of Luxembourg (Agent: J. Faltz), the Portuguese Republic (Agents: L. Fernandes, V. Guimarães and Â. Seïça Neves), with an address for service in Luxembourg, and by the United Kingdom of Great Britain and Northern Ireland (Agent: J.E. Collins, assisted by D. Wyatt QC), with an address for service in Luxembourg — application for the annulment of Council Directive 2001/44/EC of 15 June 2001 amending Directive 76/308/EEC on mutual assistance for the recovery of claims resulting from operations forming part of the system of financing the European Agricultural Guidance and Guarantee Fund, and of agricultural levies and customs duties and in respect of value added tax and certain excise duties (OJ 2001 L 175, p. 17) and for the maintenance of the effects of that directive until the entry into force of a directive adopted on the correct legal basis — the Court (Sixth Chamber), composed of: C. Gulmann, acting as President of the Sixth Chamber, J.N. Cunha Rodrigues, J.-

P. Puissochet, R. Schintgen (Rapporteur) and F. Macken, Judges; S. Alber, Advocate General; R. Grass, Registrar, has given a judgment on 29 April 2004, in which it:

- 1) Dismisses the application;
- 2) Orders the Commission of the European Communities to pay the costs;
- 3) Orders Ireland, the Grand Duchy of Luxembourg, the Portuguese Republic, the United Kingdom of Great Britain and Northern Ireland and the European Parliament to pay their own costs.

(¹) OJ C 303, 27.10.2001.

JUDGMENT OF THE COURT

(Fifth Chamber)

of 29 April 2004

in Case C-341/01 (reference for a preliminary ruling from the Landesgericht Korneuburg): Plato Plastik Robert Frank GmbH v Caropack Handelsgesellschaft mbH (¹)

(Directive 94/62/EC — Packaging and waste packaging — Plastic carrier bags — National legislation on the collection and recovery of used packaging and waste packaging — Collection and recovery of used packaging and waste packaging — Obligation to have recourse to an approved undertaking or to organise a collection system — Admissibility)

(2004/C 118/22)

(Language of the case: German)

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

In Case C-341/01: reference to the Court under Article 234 EC from the Landesgericht (Regional Court) Korneuburg (Austria) for a preliminary ruling in the proceedings pending before that court between Plato Plastik Robert Frank GmbH and Caropack Handelsgesellschaft mbH — on the interpretation of Article 3(1) of European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste (OJ 1994 L 365, p. 10) and other Community provisions — the Court (Fifth Chamber), composed of: C. W. A. Timmermans, acting for the President of the Fifth Chamber, A. Rosas (Rapporteur) and S. von Bahr, Judges; P. Léger, Advocate General; M. Múgica Arzamendi, Principal Administrator, for the Registrar, has given a judgment on 29 April 2004, in which it has ruled: