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(Information)

COURT OF JUSTICE

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JUDGMENT OF THE COURT

(Grand Chamber)

of 22 February 2005

in Case C-141/02 P: Commission of the European Communities v T-Mobile Austria GmbH ⁽¹⁾*(Appeal — Article 90(3) of the EC Treaty (now Article 86(3) EC) — Amount of the fees imposed by the Republic of Austria on operators of GSM networks — Partial rejection of the complaint — Admissibility)*

(2005/C 93/01)

(Language of the case: German)

In Case C-141/02 P, appeal under Article 49 of the EC Statute of the Court of Justice, brought on 15 April 2002, Commission of the European Communities (Agents: W. Mölls and K. Wiedner) supported by: French Republic, (Agents: G. de Bergues and F. Million) the other parties to the proceedings being: T-Mobile Austria GmbH, formerly max-mobil Telekommunikation Service GmbH, established in Vienna (Austria) (avocats: A. Reidlinger, M. Esser-Wellié and T. Lübbig), Kingdom of the Netherlands (H.G. Sevenster) – the Court (Grand Chamber), composed of V. Skouris, President of the Chamber, P. Jann, C.W.A. Timmermans, A. Rosas and A. Borg Barthet, Presidents of Chambers, J.-P. Puissochet (Rapporteur), R. Schintgen, N. Colneric, S. von Bahr, M. Ilešič, J. Malenovský, J. Klučka and U. Löhmus, Judges; M. Poiares Maduro, Advocate General; M.-F. Contet, Principal Administrator, for the Registrar, gave a judgment on 22 February 2005, in which it:

1. Sets aside the judgment of 30 January 2002 of the Court of First Instance of the European Communities in Case T-54/99 *max.mobil v Commission*;
2. Dismisses the action brought by *max.mobil Telekommunikation Service GmbH* before the Court of First Instance of the European Communities;

3. Orders T-Mobile Austria GmbH to pay the costs.

⁽¹⁾ OJ C 169 of 13.07.2002.

JUDGMENT OF THE COURT

(Second Chamber)

of 17 February 2005

in Joined Cases C-453/02 and C-462/02: (references for a preliminary ruling from the Bundesfinanzhof) Finanzamt Gladbeck v Edith Linneweber and Finanzamt Herne-West v Savvas Akritidis ⁽¹⁾*(Sixth VAT Directive — Exemption for games of chance — Determination of the conditions and limitations to which the exemption is subject — Liability of games organised outside public casinos — Respect for the principle of fiscal neutrality — Article 13B(f) — Direct effect)*

(2005/C 93/02)

(Language of the case: German)

In Joined Cases C-453/02 and C-462/02: references for a preliminary ruling under Article 234 EC from the Bundesfinanzhof (Germany), made by decisions of 6 November 2002, received at the Court on 13 and 23 December 2002, in the proceedings Finanzamt Gladbeck v Edith Linneweber (C-453/02 and Finanzamt Herne-West v Savvas Akritidis (C-462/02) – the Court (Second Chamber), composed of C.W.A. Timmermans, President of the Chamber, C. Gulmann and R. Schintgen (Rapporteur) Judges; C. Stix-Hackl, Advocate General; M.F. Contet, Administrator, for the Registrar, gave a judgment on 17 February 2005, the operative part of which is as follows:

1. Article 13B(f) of 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 precludes national legislation which provides that the operation of all games of chance and gaming machines is exempt from VAT where it is carried out in licensed public casinos, while the operation of the same activity by traders other than those running casinos does not enjoy that exemption.
2. Article 13B(f) of the Sixth Directive has direct effect in the sense that it can be relied on by an operator of games of chance or gaming machines before national courts to prevent the application of rules of national law which are inconsistent with that provision.

(¹) OJ C 70 of 22.03.2003.

JUDGMENT OF THE COURT

(Third Chamber)

of 17 February 2005

in Case C-134/03: (reference for a preliminary ruling from the Giudice di pace di Genova-Voltri) **Viacom Outdoor Srl v Giotto Immobiliere SARL** (¹)

(Freedom to provide services — Competition — Bill-posting services — Domestic legislation imposing a municipal tax on advertising — Supply by municipalities of a public bill-posting service — Power of the municipalities to regulate the supply of bill-posting services — Internal taxation not discriminatory)

(2005/C 93/03)

(Language of the case: Italian)

In Case C-134/03: reference for a preliminary ruling under Article 234 EC from the Giudice di pace di Genova-Voltri (Italy), by decision of 10 March 2003, received at the Court on 25 March 2003, in the proceedings between **Viacom Outdoor Srl v Giotto Immobiliere SARL** — the Court (Third Chamber), composed of A. Rosas (Rapporteur), President of the Chamber, A. Borg Barthet, J.-P. Puissochet, J. Malenovský and U. Lohmus, Judges; J. Kokott, Advocate General; L. Hewlett, Principal Administrator, for the Registrar, has given a judgment on 17 February 2005, in which it rules that:

1. The questions concerning the interpretation of Articles 82 EC, 86 EC, 87 EC and 88 EC are inadmissible;
2. Article 49 EC does not preclude the levying of a tax such as the municipal tax on advertising imposed by the Decreto legislativo No 507 — Revisione ed armonizzazione dell'imposta comunale sulla pubblicità e del diritto sulle pubbliche affissioni (Legislative Decree No 507 revising and harmonising municipal advertising tax and bill-posting duty) of 15 November 1993.

(¹) OJ C 146 of 21.06.2003.

JUDGMENT OF THE COURT

(Fifth Chamber)

of 24 February 2005

in Case C-320/04 **Commission of the European Communities v Grand Duchy of Luxembourg** (¹)

(Failure of a Member State to fulfil obligations — Directive 2000/43/EC — Failure to transpose within the prescribed period)

(2005/C 93/04)

(Language of the case: French)

In Case C-320/04 **Commission of the European Communities** (Agent: D. Martin) v **Grand Duchy of Luxembourg** (Agent: S. Schreiner) — action for failure to fulfil obligations under Article 226 EC, brought on 27 July 2004 — the Court (Fifth Chamber), composed of R. Silva de Lapuerta, President of the Chamber, J. Makarczyk and J. Klučka (Rapporteur), Judges; P. Léger, Advocate General; R. Grass, Registrar, gave a judgment on 24 February 2005, in which it:

1. Declares that by failing to adopt the laws, regulations and administrative provisions necessary to comply with Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, the Grand Duchy of Luxembourg has failed to fulfil its obligations under that directive;