

Pleas in law and main arguments

Swedish income tax law contains provisions on deferred taxation on the sale of private immovable property and the rights thereto. A taxpayer may defer taxation if he/she accounts for capital gains on the basis of a sale which includes a permanent dwelling in Sweden and has acquired or intends to acquire a replacement property in Sweden and has moved or intends to move into the replacement property. However, no deferral of taxation is permitted if the properties sold and newly acquired are situated outside Swedish territory. The above conditions constitute a clear obstacle to the exercise of the fundamental freedoms enshrined in the EC Treaty and the EEA Agreement.

The Swedish rules are not appropriate to ensure the coherence of the Swedish tax system since, with regard to a single taxpayer, there is no direct link between the fiscal advantage (the deferred taxation) and the compensation for that advantage through a tax levy within the framework of the same taxation. In all the circumstances, the Swedish rules are disproportionate to the aim they seek to achieve.

Action brought on 27 February 2006 by the Commission of the European Communities against the Slovak Republic

(Case C-114/06)

(2006/C 96/14)

(Language of the case: Slovak)

An action against the Slovak Republic was brought before the Court of Justice of the European Communities on 27 February 2006 by the Commission of the European Communities, represented by G. Zavvos and Tomáš Kukul, acting as Agents, with an address for service in Luxembourg.

The Commission claims that the Court should:

1. declare that, by failing to adopt the laws, regulations and administrative provisions necessary to comply with Council Directive 96/48/EC of 23 July 1996 on the interoperability of the trans-European high-speed rail system⁽¹⁾, or alternatively by failing to notify those measures to the Commission, the Slovak Republic has failed to fulfil its obligations under that directive;
2. order the Slovak Republic to pay the costs.

Pleas in law and main arguments

The period for adopting measures to transpose the directive expired on 1 May 2004.

⁽¹⁾ OJ L 235 of 17. 9. 1996, p. 6.

Action brought on 2 March 2006 by the Commission of the European Communities against the Hellenic Republic

(Case C-123/06)

(2006/C 96/15)

(Language of the case: Greek)

An action against the Hellenic Republic was brought before the Court of Justice of the European Communities on 2 March 2006 by the Commission of the European Communities, represented by Dominique Maidani and Georgios Zavvos, Legal Advisers in its Legal Service, with an address for service in Luxembourg.

The Commission claims that the Court should:

- declare that, by not adopting, and in any event by not notifying to the Commission, the necessary laws, regulations and administrative provisions in order to comply with Directive 2001/24/EC⁽¹⁾ of the European Parliament and of the Council of 4 April 2001 on the reorganisation and winding up of credit institutions, the Hellenic Republic has failed to fulfil its obligations under that directive;
- order the Hellenic Republic to pay the costs.

Pleas in law and main arguments

In the case in point, Article 34 of Directive 2001/24/EC of the European Parliament and of the Council of 4 April 2001 provides that Member States are to bring into force the laws, regulations and administrative provisions necessary to comply with the directive by 5 May 2004 at the latest and are immediately to inform the Commission thereof.

⁽¹⁾ OJ No L 125, 5.5.2001, p. 15.