

**Judgment of the Court (Second Chamber) of 15 June 2006
— Commission of the European Communities v Republic
of Finland**

(Case C-249/05) ⁽¹⁾

(Failure of a Member State to fulfil obligations — Articles 28 EC and 49 EC — Sixth VAT Directive — Articles 21 and 22 — Obligation for a taxable person who is established in a Member State other than the one where he carries out taxable transactions to appoint a tax representative who is not directly liable to pay VAT)

(2006/C 190/09)

Language of the case: Finnish

Parties

Applicant: Commission of the European Communities (represented by: D. Triantafyllou and I. Koskinen, Agents)

Defendant: Republic of Finland (represented by: T. Pynnä and E. Bygglin, Agents)

Re:

Failure of a Member State to fulfil obligations — Infringement of Articles 28 and 49 EC and Articles 21 and 22 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 (OJ 1977 L 145, p. 1) — National legislation imposing the obligation, for a taxable person who is not established in a country, but who carries out taxable transactions there, to appoint a tax representative who is not directly liable to pay tax

Operative part of the judgment

The Court hereby:

1. Declares that, by imposing the appointment of a tax representative on taxable persons not established in Finland, but who carry out taxable transactions there and are established in another Member State or in a non-member State with which a convention has been concluded concerning mutual assistance of the competent authorities as regards indirect taxes, the scope of which corresponds to the scope defined in Council Directive 76/308/EEC of 15 March 1976 on mutual assistance for the recovery of claims relating to certain levies, duties, taxes and other measures, as amended by Council Directive 2001/44/EC of 15 June 2001, and in Council Regulation (EC) No 1798/2003 of 7 October 2003 on administrative cooperation in the field of value added tax and repealing Regulation (EEC) No 218/92, the Republic of Finland has failed to fulfil its obligations under Articles 21 and 22 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, as amended by Council Directive 2001/115/EC of 20 December 2001;

2. Orders the Republic of Finland to pay the costs.

⁽¹⁾ OJ C 193, 06.08.2005.

**Judgment of the Court (Fifth Chamber) of 15 June 2006 —
Commission of the European Communities v Federal
Republic of Germany**

(Case C-264/05) ⁽¹⁾

(Failure of a Member State to fulfil obligations — Directive 2001/19/EC — Mutual recognition of diplomas, certificates and other qualifications — Nurse, dentist, veterinary surgeon, midwife, architect, pharmacist and doctor — Failure to transpose within the prescribed period)

(2006/C 190/10)

Language of the case: German

Parties

Applicant: Commission of the European Communities (represented by: A. Manville and H. Støvlbæk, Agents)

Defendant: Federal Republic of Germany (represented by: C. Schulze-Bahr, Agent)

Re:

Failure of a Member State to fulfil obligations — Failure to transpose within the prescribed period, Directive 2001/19/EC of the European Parliament and of the Council of 14 May 2001 amending Council Directives 89/48/EEC and 92/51/EEC on the general system for the recognition of professional qualifications and Council Directives 77/452/EEC, 77/453/EEC, 78/686/EEC, 78/687/EEC, 78/1026/EEC, 78/1027/EEC, 80/154/EEC, 80/155/EEC, 85/384/EEC, 85/432/EEC, 85/433/EEC and 93/16/EEC concerning the professions of nurse responsible for general care, dental practitioner, veterinary surgeon, midwife, architect, pharmacist and doctor (OJ 2001 L 206, p. 1)

Operative part of the judgment

The Court hereby:

1. Declares that, by failing to adopt, within the prescribed period, all the laws, regulations and administrative provisions necessary to ensure the complete transposition of Directive 2001/19/EC of the European Parliament and of the Council of 14 May 2001 amending Council Directives 89/48/EEC and 92/51/EEC on the general system for the recognition of professional qualifications and Council Directives 77/452/EEC, 77/453/EEC, 78/686/EEC, 78/687/EEC, 78/1026/EEC, 78/1027/EEC, 80/154/EEC, 80/155/EEC, 85/384/EEC, 85/432/EEC, 85/433/EEC and 93/16/EEC concerning the professions of nurse responsible for general care, dental practitioner, veterinary surgeon, midwife, architect, pharmacist and doctor, the Federal Republic of Germany has failed to fulfil its obligations under that directive;
2. Orders the Federal Republic of Germany to pay the costs.

(⁽¹⁾) OJ C 205, 20.08.2005.

Appeal brought on 26 April 2006 by Alecansan SL against the judgment of the Court of First Instance (First Chamber) delivered on 7 February 2006 in Case T-202/03: Alecansan SL v Office for Harmonisation in the Internal Market (Trade Marks and Designs)(OHIM)

(Case C-196/06 P)

(2006/C 190/11)

Language of the case: English

Parties

Appellant: Alecansan SL (represented by: P. Merino Baylos and A. Velázquez Ibáñez, abogados)

Other parties to the proceedings: Office for Harmonisation in the Internal Market, CompUSA Management Co.

Form of order sought

The applicant claims that the Court should:

- annul the judgment of 7 February 2006 (Case T-202/03) of the First Chamber of the Court of First Instance dismissing the action for annulment filed against the Resolution dated 24 March 2003 of the First Appeal Chamber of the Office for Harmonisation of the Internal Market (OHIM) in case R-711/2002-1, dismissing the opposition filed by Alecansan SL against community trade mark application No 849.497 'COMPUSA'.

Pleas in law and main arguments

The appellant submits that the Court of First Instance erred in its interpretation of article 8.1.b) of Regulations No 40/94 (⁽¹⁾) when it found that there was no likelihood of confusion between the two marks on the grounds that, despite the high degree of similarity from a phonetic and a visual point of view, the goods and services of the trade mark applied for are not similar to the services covered by the appellant's mark. The appellant maintains that the Court of First Instance failed to take account of several important factors when determining the existence of the likelihood of confusion.

(⁽¹⁾) OJ L 11, 14.1.1994, p.1

Reference for a preliminary ruling from the Unabhängiger Finanzsenat Salzburg-Aigen (Austria) lodged on 8 May 2006 — Schwaninger Martin, Viehhandel — Viehexport v Zollamt Salzburg, Erstattungen

(Case C-207/06)

(2006/C 190/12)

Language of the case: German

Referring court

Unabhängiger Finanzsenat Salzburg-Aigen

Parties to the main proceedings

Applicant: Martin Schwaninger, Viehhandel — Viehexport

Defendant: Zollamt Salzburg, Erstattungen

Questions referred

1. Is Article 1 of Commission Regulation (EC) No 615/98 (⁽¹⁾) of 18 March 1998 to be understood as meaning that Chapter VII 48 point 7(b) of the annex to Directive 91/628/EEC (⁽²⁾) of 19 November 1991 applies analogously in the case of transport by sea on a regular and direct link between a geographical point of the Community and a geographical point in a third country by means of vehicles loaded on to vessels without unloading of the animals?
2. If question one is answered in the affirmative, is Chapter VII 48 point 7(b) of the annex to Directive 91/628/EEC to be understood as meaning that, in the case of transport of bovine animals, the journey time by sea does not comply with the rule in point 4(d) if, after 14 hours of travel, the animals are not given a rest period of at least one hour?