

**Judgment of the Court (Grand Chamber) of 12 September 2006 — R.J. Reynolds Tobacco Holdings, Inc., RJR Acquisition Corp., R.J. Reynolds Tobacco Company, R.J. Reynolds Tobacco International, Inc., Japan Tobacco, Inc. v Philip Morris International Inc., Commission of the European Communities, European Parliament, Kingdom of Spain, French Republic, Italian Republic, Portuguese Republic, Republic of Finland, Republic of Germany, Hellenic Republic, Kingdom of the Netherlands**

(Case C-131/03 P) <sup>(1)</sup>

**(Appeal — Commission's decision to bring proceedings before a court of a non-Member State — Action for annulment — Inadmissible)**

(2006/C 294/02)

*Language of the case: English*

#### Parties

*Appellants:* R.J. Reynolds Tobacco Holdings, Inc., RJR Acquisition Corp., R.J. Reynolds Tobacco Company, R.J. Reynolds Tobacco International, Inc., Japan Tobacco, Inc. (represented by: P. Lomas, Solicitor, and O.W. Brouwer, Lawyer)

*Other parties to the proceedings:* Philip Morris International Inc., Commission of the European Communities (represented by: C. Docksey, X. Lewis and C. Ladenburger, Agents), European Parliament (represented by: H. Duintjer Tebbens and A. Baas), Kingdom of Spain (represented by: N. Díaz Abad, Agent), French Republic (represented by: G. de Bergues, Agent), Italian Republic (represented by: I. Braguglia, Agent, and M. Fiorilli, Lawyer), Portuguese Republic (represented by: L. Fernandes et A. Seiça Neves, Agents), Republic of Finland (represented by: T. Pynnä and A. Guimaraes-Purokoski, Agents), Republic of Germany (represented by: M. Lumma and W.-D. Plessing, Agents), Hellenic Republic, Kingdom of the Netherlands (represented by: J.G.M. van Bakel, Agent)

*Intervener in support of the Commission:* Council of the European Union (represented by: M. Bishop and T. Blanchet, Agents)

#### Re:

Appeal brought against the judgment of the Court of First Instance (Second Chamber, Extended Composition) of 15 January 2003 in Joined Cases T-377/00, T-379/00, T-380/00, T-260/01 and T-272/01 *Philip Morris International and Others v Commission*, by which it declared inadmissible the actions for annulment of the Commission's decision to bring a civil action against the appellants before a United States court following their alleged involvement in smuggling cigarettes into the European Union, in order to obtain compensation for the financial loss suffered by the Union and a court order that the smuggling is to cease — Interpretation of Article 230 EC and the case-law of the Court — Legal effects of the Commission's decision to bring a civil action before a court of a non-Member State

#### Operative part of the judgment

1. *The appeal is dismissed.*
2. *R.J. Reynolds Tobacco Holdings, Inc., RJR Acquisition Corp., R.J. Reynolds Tobacco Company, R.J. Reynolds Tobacco International, Inc., and Japan Tobacco, Inc., are ordered to pay the costs.*
3. *The Federal Republic of Germany, the Kingdom of Spain, the French Republic, the Italian Republic, the Kingdom of the Netherlands, the Portuguese Republic, the Republic of Finland, the European Parliament and the Council of the European Union are to bear their own costs.*

<sup>(1)</sup> OJ C 146, 21.06.2003.

**Judgment of the Court (First Chamber) of 5 October 2006 — Commission of the European Communities v Kingdom of Belgium**

(Case C-377/03) <sup>(1)</sup>

**(Failure of a Member State to fulfil obligations — Communities' own resources — Undischarged TIR carnets — Failure or delay in paying the corresponding own resources)**

(2006/C 294/03)

*Language of the case: French*

#### Parties

*Applicant:* Commission of the European Communities (represented by: C. Giolito and G. Wilms, Agents)

*Defendant:* Kingdom of Belgium (represented by: E. Dominkovits, A. Goldman and M. Wimmer, Agents, B. van de Walle de Ghelcke, Lawyer)

#### Re:

Failure of a Member State to fulfil obligations — Articles 6, 9, 10 and 11 of Council Regulation (EC, Euratom) No 1150/2000 of 22 May 2000 implementing Decision 94/728/EC, Euratom on the system of the Communities' own resources (OJ 2000 L 130, p. 1) — Default or delay in the payment of the own resources to the Commission — Failure to comply with accounting rules — Irregular release of certain transit documents (TIR carnets) by the Belgian customs authority

**Operative part of the judgment**

The Court:

1. Declares that by failing to enter in the accounts, or by making a late entry in the accounts of, the own resources arising from the TIR carnets which had not been discharged properly, by placing them in the B accounts instead of entering them in the A accounts, with the result that the relevant own resources were not made available to the Commission of the European Communities within the time-limits,
  - by refusing to pay default interest on the amounts owing to the Commission of the European Communities,
  - the Kingdom of Belgium has failed to fulfil its obligations under Articles 6, 9, 10 and 11 of Council Regulation (EC, Euratom) No 1150/2000 of 22 May 2000 implementing Decision 94/728/EC, Euratom on the system of the Communities' own resources, which, with effect from 31 May 2000, repealed and replaced Council Regulation (EEC, Euratom) No 1552/89 of 29 May 1989 implementing Decision 88/376/EEC, Euratom on the system of the Communities' own resources, which had identical subject-matter;
2. Dismisses the remainder of the action;
3. Orders the Kingdom of Belgium to pay the costs.

(<sup>1</sup>) OJ C 264, 01.11.2003.

**Judgment of the Court (First Chamber) of 5 October 2006  
— Commission of the European Communities v Kingdom  
of Belgium**

(Case C-378/03) (<sup>1</sup>)

**(Failure of a Member State to fulfil obligations — Commu-  
nities' own resources — Payment in instalments by the  
debtor — Recovery)**

(2006/C 294/04)

Language of the case: French

**Parties**

*Applicant:* Commission of the European Communities (represented by: G. Wilms and C. Giolito, Agents)

*Defendant:* Kingdom of Belgium (represented by: E. Dominkovits and A. Goldman, Agents and B. van de Walle de Ghelcke, avocat.)

**Re:**

Failure of a Member State to fulfil obligations — Articles 6, 10 and 11 of Council Regulation (EC, Euratom) No 1150/2000 of

22 May 2000 implementing Decision 94/728/EC, Euratom on the system of the Communities' own resources (OJ 2000 L 130, p. 1) — Late payment of the own resources where the debtor pays in stages — Import duties

**Operative part of the judgment**

The Court:

- 1) Declares that, because of the late payment of own resources in the case of receipt of payments in instalments from a debtor, the Kingdom of Belgium has failed to fulfil its obligations under Articles 10 and 11 of Council Regulation (EC, Euratom) No 1150/2000 of 22 May 2000 implementing Decision 94/728/EC, Euratom on the system of the Communities' own resources, which, with effect from 31 May 2000, repealed and replaced Council Regulation (EEC, Euratom) No 1552/89 of 29 May 1989 implementing Decision 88/376/EEC, Euratom on the system of the Communities' own resources, which was identical in subject-matter;
- 2) Dismisses the remainder of the application;
- 3) Orders the Kingdom of Belgium to pay the costs.

(<sup>1</sup>) OJ C 264, 01.11.2003.

**Judgment of the Court (Grand Chamber) of 3 October  
2006 (reference for a preliminary ruling from the Commis-  
sione tributaria provinciale di Cremona — Italy) — Banca  
popolare di Cremona Soc. coop. arl v Agenzia Entrate  
Ufficio Cremona**

(Case C-475/03) (<sup>1</sup>)

**(Sixth VAT Directive — Article 33(1) — Prohibition on the  
levying of other domestic taxes which can be characterised as  
turnover taxes — Definition of 'turnover taxes' — Italian  
regional tax on productive activities)**

(2006/C 294/05)

Language of the case: Italian

**Referring court**

Commissione tributaria provinciale di Cremona

**Parties to the main proceedings**

*Applicant:* Banca popolare di Cremona Soc. coop. arl

*Defendant:* Agenzia Entrate Ufficio Cremona