

Parties to the main proceedings

Applicants: Klas Rosengren, Bengt Morelli, Hans Särman, Mats Åkerström, Åke Kempe, Anders Kempe, Mats Kempe, Björn Rosengren, Martin Lindberg, Jon Pierre, Tony Staf

Defendant: Riksåklagaren

Re:

Reference for a preliminary ruling — Högsta Domstolen — Interpretation of Articles 28, 30 and 31 EC in the light of national provisions regarding a national retail monopoly for retail sales of alcoholic beverages which exclude the direct import of such beverages by individuals

Operative part of the judgment

1. A national provision, such as that in the first subparagraph of Paragraph 2 of Chapter 4 of the Law on alcohol (*alkohollagen*) of 16 December 1994, under which private individuals are prohibited from importing alcoholic beverages must be assessed in the light of Article 28 EC and not in the light of Article 31 EC.
2. A measure, such as that in the first subparagraph of Paragraph 2 of Chapter 4 of the Law on alcohol, under which private individuals are prohibited from importing alcoholic beverages amounts to a quantitative restriction on imports within the meaning of Article 28 EC, even though that law requires the holder of the retail sale monopoly, on request, to supply and therefore, if necessary, to import the beverages in question.
3. A measure, such as that in the first subparagraph of Paragraph 2 of Chapter 4 of the Law on alcohol, under which private individuals are prohibited from importing alcoholic beverages,

— as it is unsuitable for attaining the objective of limiting alcohol consumption generally, and

— as it is not proportionate for attaining the objective of protecting young persons against the harmful effects of such consumption,

cannot be regarded as being justified under Article 30 EC on grounds of protection of the health and life of humans.

(¹) OJ C 156, 12.6.2004.

Judgment of the Court (First Chamber) of 7 June 2007 — Commission of the European Communities v Hellenic Republic

(Case C-178/05) (¹)

(Failure of a Member to fulfil obligations — Directive 69/335/EEC — Indirect taxes on the raising of capital — Capital duty — Exhaustive harmonisation — National legislation providing for taxation of any transfer of the effective centre of management or registered office, in so far as the company concerned is not subject to capital duty in the Member State of origin — National legislation under which agricultural cooperative organisations, and associations or consortia thereof of any kind, are exempted from the tax — National legislation under which co-ownership of vessels, shipping consortia and any form of shipping company are exempted from the tax — Prevention of tax avoidance — Abuse of rights — Limitation of the temporal effects of a judgment)

(2007/C 170/04)

Language of the case: Greek

Parties

Applicant: Commission of the European Communities (represented by: D. Triantafyllou, acting as Agent)

Defendant: Hellenic Republic (represented by: S. Khala and M. Tassopoulou, acting as Agents)

Intervener in support of the defendant: Kingdom of Spain (represented by: N. Diaz Abad, acting as Agent)

Re:

Failure of a Member State to fulfil obligations — Breach of Council Directive 69/335/EEC of 17 July 1969 concerning indirect taxes on the raising of capital (OJ, English Special Edition 1969 (II), p. 412) — Transfer of a company's effective centre of management or registered office — Exemption from capital duty for agricultural cooperatives and shipping companies

Operative part of the judgment

The Court:

1. Declares that, as a result of its legislation relating to the charging of capital duty in the event of transfer of the registered office or the effective centre of management of a company and to the exemption from that duty of co-ownership of vessels, shipping consortia and any form of shipping company, the Hellenic Republic has failed to fulfil its obligations under Council Directive 69/335/EEC of 17 July 1969 concerning indirect taxes on the raising of capital, as amended by Council Directive 85/303/EEC of 10 June 1985;
2. Dismisses the action as to the remainder;
3. Orders the Hellenic Republic to pay the costs.

(¹) OJ C 155, 25.6.2005.