

**Reference for a preliminary ruling from the Wojewódzki Sąd Administracyjny, Cracow (Republic of Poland), lodged on 10 September 2007 — MAGOORA Sp. z.o.o. v Dyrektor Izby Skarbowej w Krakowie**

(Case C-414/07)

(2007/C 269/59)

*Language of the case: Polish*

**Referring court**

Wojewódzki Sąd Administracyjny, Cracow

**Parties to the main proceedings**

*Applicant:* MAGOORA Sp. z.o.o.

*Defendant:* Dyrektor Izby Skarbowej w Krakowie

**Questions referred**

1. Does Article 17(2) and (6) of the Sixth Directive <sup>(1)</sup> preclude the Republic of Poland from repealing completely, as of 1 May 2004, national provisions in force up to that date concerning restrictions on the deduction of input tax on purchases of fuel for vehicles used for a taxable activity and also introducing in their place restrictions on the deduction of input tax on purchases of fuel for vehicles used for a taxable activity but which are defined in national law on the basis of different criteria to those used prior to 1 May 2004, and from subsequently amending those criteria again with effect from 22 August 2005?
2. If the answer to Question 1 is in the affirmative: does Article 17(6) of the Sixth Directive preclude the Republic of Poland from amending the above criteria so as *de facto* to restrict the scope of deductions of input tax in comparison with the national provisions in force on 30 April 2004 or with the national provisions in force before the amendment made on 22 August 2005? If it should be found that this action by the Republic of Poland constitutes a breach of Article 17(6) of the Sixth Directive, would it be necessary to find that a taxable person would be entitled to make deductions but only in so far as the amendments to the national provisions went beyond the scope of the restrictions on deducting input tax provided for in the national provisions in force on 30 April 2004 and repealed on that same date?
3. Does Article 17(6) of the Sixth Directive preclude the Republic of Poland, invoking the possibility, provided for in that provision, for Member States to restrict the deduction of input tax attaching to expenditure which is not strictly business expenditure, such as that on luxuries, amusements or entertainment, from restricting the deduction of input tax in comparison with the position in law as it stood on 30 April 2004 so as to exclude the deduction of input tax on the

purchase of fuel for passenger cars or other motor vehicles with a maximum authorised mass not exceeding 3,5 tonnes, with the exception of vehicles referred to in Article 86(4) of the Ustawa o podatku od towarów i usług (Polish Law on the tax on goods and services) of 11 March 2004, in the version in force since 22 August 2005?

<sup>(1)</sup> 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).

**Reference for a preliminary ruling from the Vestre Landsret (Denmark) lodged on 13 September 2007 — Criminal proceedings against Frede Damgaard**

(Case C-421/07)

(2007/C 269/60)

*Language of the case: Danish*

**Referring court**

Vestre Landsret

**Party to the main proceedings**

Frede Damgaard

**Question referred**

Is Article 86 of Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use <sup>(1)</sup>, as subsequently amended, to be interpreted as meaning that dissemination by a third party of information about a medicinal product, including in particular information about the medicinal product's therapeutic or prophylactic properties, is to be understood as constituting advertising, even though the third party in question is acting on his own initiative and completely independently, *de jure* and *de facto*, of the manufacturer and the seller?

<sup>(1)</sup> OJ 2001 L 311, p. 67.