

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Ireland to pay the costs;
3. Orders the Kingdom of Spain, the Kingdom of the Netherlands, the Slovak Republic, the Commission of the European Communities and the European Data Protection Supervisor to bear their own respective costs.

(¹) OJ C 237, 30.9.2006.

Judgment of the Court (Second Chamber) of 12 February 2009 — Commission of the European Communities v Hellenic Republic

(Case C-45/07) (¹)

(Failure of a Member State to fulfil obligations — Articles 10 EC, 71 EC and 80(2) EC — Maritime safety — Monitoring of ships and port facilities — International agreements — Division of powers between the Community and the Member States)

(2009/C 82/04)

Language of the case: Greek

Parties

Applicant: Commission of the European Communities (represented by: K. Simonsson, M. Konstantinidis, F. Hoffmeister and I. Zervas, Agents)

Defendant: Hellenic Republic (represented by: A. Samoni-Rantou and S. Chala, Agents)

Intervener in support of the defendant: United Kingdom of Great Britain and Northern Ireland (represented by: I. Rao, Agent, and D. Anderson QC)

Re:

Failure of a Member State to fulfil obligations — Infringement of Articles 10, 71 and 80(2) of the EC Treaty — Submission to an international organisation of a proposal which falls within a field covered by exclusive Community external competence — Maritime safety — Proposal for monitoring the compliance of ships and port facilities with the requirements of Chapter XI-2 of SOLAS and the ISPS Code

Operative part of the judgment

The Court:

1. Declares that, by submitting to the International Maritime Organisation (IMO) a proposal (MSC 80/5/11) for monitoring the compliance of ships and port facilities with the requirements of

Chapter XI-2 of the International Convention for the Safety of Life at Sea, concluded in London on 1 November 1974, and the International Ship and Port Facility Security Code, the Hellenic Republic has failed to fulfil its obligations under Articles 10 EC, 71 EC and 80(2) EC.

2. Orders the Hellenic Republic to pay the costs.

(¹) OJ C 82, 14.4.2007.

Judgment of the Court (First Chamber) of 12 February 2009 (reference for a preliminary ruling from the Hof van beroep te Antwerpen — Belgium) — Belgische Staat v N.V. Cobelfret

(Case C-138/07) (¹)

(Directive 90/435/EEC — Article 4(1) — Direct effect — National legislation designed to prevent double taxation of distributed profits — Deduction of the amount of dividends received from a parent company's basis of assessment only in so far as it has made taxable profits)

(2009/C 82/05)

Language of the case: Dutch

Referring court

Hof van beroep te Antwerpen

Parties to the main proceedings

Appellant: Belgische Staat

Respondent: N.V. Cobelfret

Re:

Reference for a preliminary ruling — Hof van beroep te Antwerpen — Interpretation of Article 4 of Council Directive 90/435/EEC of 23 July 1990 on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States (OJ 1990 L 225, p. 6) — National provisions designed to prevent double taxation of distributed dividends — Conditions

Operative part of the judgment

The first indent of Article 4(1) of Council Directive 90/435/EEC of 23 July 1990 on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States must be interpreted as precluding legislation of a Member State, such as that at issue in the main proceedings, which provides that dividends received by a parent company are to be included in its basis of assessment in order subsequently to be deducted from that basis in the amount of 95 %, in so far as, for the tax period in question, the parent company has a positive profit balance after deduction of other exempted profits.