

C-140/03 *Commission v Greece, the Hellenic Republic has failed to fulfil its obligations under Article 228(1) EC.*

2. Orders the Hellenic Republic to pay into the 'European Community own resources' account of the Commission of the European Communities a lump sum of EUR 1 million.
3. Orders the Hellenic Republic to pay the costs.

(<sup>1</sup>) OJ C 64, 8.3.2008.

**Judgment of the Court (Second Chamber) of 11 June 2009 (Reference for a preliminary ruling from the Krajský soud v Ústí nad Labem — Czech Republic) — RLRE Tellmer Property s.r.o. v Finanční ředitelství v Ústí nad Labem**

(Case C-572/07) (<sup>1</sup>)

*(Preliminary references — VAT — Exemption for lettings of immovable property — Cleaning of common parts related to the letting — Ancillary supplies)*

(2009/C 180/19)

Language of the case: Czech

#### Referring court

Krajský soud v Ústí nad Labem

#### Parties to the main proceedings

Applicant: RLRE Tellmer Property s.r.o.

Defendant: Finanční ředitelství v Ústí nad Labem

#### Re:

Reference for a preliminary ruling — Krajský soud v Ústí nad Labem (Czech Republic) — Interpretation of Articles 6 and 13 B(b) 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) — Scope of the VAT exemption on the letting of immovable property — Inclusion of costs for cleaning the common parts of an apartment block.

#### Operative part of the judgment

For the purposes of applying Article 13B(b) 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, the letting of immovable property and the cleaning service of the common parts of the latter must, in circumstances such as those at issue in the main proceedings, be regarded as independent, mutually divisible operations, so that the said service does not fall within that provision.

(<sup>1</sup>) OJ C 79, 29.3.2008.

**Judgment of the Court (Third Chamber) of 4 June 2009 (reference for a preliminary ruling from the College van Beroep voor het bedrijfsleven — Netherlands) — T-Mobile Netherlands BV, KPN Mobile NV, Orange Nederland NV, Vodafone Libertel NV v Raad van bestuur van de Nederlandse Mededingingsautoriteit**

(Case C-8/08) (<sup>1</sup>)

*(Reference for a preliminary ruling — Article 81(1) EC — Concept of 'concerted practice' — Causal connection between concerted action and the market conduct of undertakings — Appraisal in accordance with the rules of national law — Whether a single meeting is sufficient or whether concerted action on a regular basis over a long period is necessary)*

(2009/C 180/20)

Language of the case: Dutch

#### Referring court

College van Beroep voor het bedrijfsleven

#### Parties to the main proceedings

Applicants: T-Mobile Netherlands BV, KPN Mobile NV, Orange Nederland NV, Vodafone Libertel NV

Defendant: Raad van bestuur van de Nederlandse Mededingingsautoriteit

#### Re:

Reference for a preliminary ruling — College van Beroep voor het bedrijfsleven — Interpretation of Article 81 EC — Concept of concerted practice — Need for a causal link between the concerted action and the conduct of the undertakings on the market — Whether appraisal is to be carried out in accordance with the rules of national law — Whether one instance of concerted action is sufficient or whether concerted action on a regular basis over a lengthy period is necessary

**Operative part of the judgment**

1. A concerted practice pursues an anti-competitive object for the purposes of Article 81(1) EC where, according to its content and objectives and having regard to its legal and economic context, it is capable in an individual case of resulting in the prevention, restriction or distortion of competition within the common market. It is not necessary for there to be actual prevention, restriction or distortion of competition or a direct link between the concerted practice and consumer prices. An exchange of information between competitors is tainted with an anti-competitive object if the exchange is capable of removing uncertainties concerning the intended conduct of the participating undertakings.
2. In examining whether there is a causal connection between the concerted practice and the market conduct of the undertakings participating in the practice — a connection which must exist if it is to be established that there is concerted practice within the meaning of Article 81(1) EC — the national court is required, subject to proof to the contrary, which it is for the undertakings concerned to adduce, to apply the presumption of a causal connection established in the Court's case-law, according to which, where they remain active on that market, such undertakings are presumed to take account of the information exchanged with their competitors.
3. In so far as the undertaking participating in the concerted action remains active on the market in question, there is a presumption of a causal connection between the concerted practice and the conduct of the undertaking on that market, even if the concerted action is the result of a meeting held by the participating undertakings on a single occasion.

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(<sup>1</sup>) OJ C 92, 12.4.2008.

**Judgment of the Court (Sixth Chamber) of 11 June 2009  
(Reference for a preliminary ruling from the  
Administratīvā apgabaltiesa — Republic of Latvia) —  
Schenker SIA v Valsts ieņēmumu dienests**

(Case C-16/08) (<sup>1</sup>)

**(Common Customs Tariff — Tariff classification —  
Combined Nomenclature — Active matrix liquid crystal  
devices)**

(2009/C 180/21)

Language of the case: Latvian

**Referring court**

Administratīvā apgabaltiesa

**Parties to the main proceedings**

Applicant: Schenker SIA

Defendant: Valsts ieņēmumu dienests

**Re:**

Reference for a preliminary ruling — Administratīvā apgabaltiesa — Interpretation of Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ 1987 L 256, p. 1) — Active matrix liquid crystal device (LCD) — Classification in heading 8528 21 90 or 9013 80 20 of the Combined Nomenclature — Whether an article has or not the essential characteristics of a complete or finished product.

**Operative part of the judgment**

Subheading 8528 21 90 of the Combined Nomenclature constituting Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, as amended by Commission Regulation (EC) No 1789/2003 of 11 September 2003, must be interpreted as not applying, as at 29 December 2004, to active matrix liquid crystal devices (LCD) principally made up of the following elements:

— two glass plates;

— a layer of liquid crystal inserted between the two plates;

— vertical and horizontal signal drivers;

— backlight;

— inverter providing high-voltage power for backlight;

and

— control block — data transmission interface (control PCB or PWB) to ensure sequential transmission of data to each pixel (dot) of the LCD unit using specific technology — LVDS (low-voltage differential signalling).

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(<sup>1</sup>) OJ C 92, 12.4.2008.