

Operative part of the judgment

'Signature' of an application for a refund of value added tax, as referred to in the specimen form set out in Annex A to the Eighth Council Directive 79/1072/EEC of 6 December 1979 on the harmonisation of the laws of the Member States relating to turnover taxes — Arrangements for the refund of value added tax to taxable persons not established in the territory of the country, is a Community law notion which must be interpreted uniformly to the effect that such a refund application need not necessarily be signed by the taxable person in person and that the signature of an agent may be sufficient for those purposes.

(¹) OJ C 313, 6.12.2008.

Judgment of the Court (Sixth Chamber) of 10 December 2009 — Commission of the European Communities v Hellenic Republic

(Case C-460/08) (¹)

(Failure of a Member State to fulfil obligations — Article 39 EC — Employment in the public service — Captain and officer (chief mate) on vessels — Conferment of powers of public authority on board — Requirement that they must be nationals of the Member State whose flag the vessels are flying)

(2010/C 24/20)

Language of the case: Greek

Parties

Applicant: Commission of the European Communities (represented by: G. Rozet and D. Triantafyllou, acting as Agents)

Defendant: Hellenic Republic (represented by: E.-M. Mamouna, acting as Agent)

Re:

Failure of a Member State to fulfil obligations — Infringement of Article 39 of the EC Treaty — National legislation which reserves for Greek nationals access to the posts of captain and officer (chief mate) on all commercial and fishing vessels flying the Greek flag

Operative part of the judgment

The Court:

1. Declares that in requiring in its legislation Greek nationality for access to the posts of captain and officer (chief mate) on all vessels flying the Greek flag, the Hellenic Republic has failed to fulfil its obligations under Community law and, in particular, under Article 39 EC.
2. Orders the Hellenic Republic to pay the costs.

(¹) OJ C 327 of 20.12.2008

Judgment of the Court (Fourth Chamber) of 19 November 2009 (reference for a preliminary ruling from the Hoge Raad der Nederlanden — Netherlands) — Don Bosco Onroerend Goed BV v Staatssecretaris van Financiën

(Case C-461/08) (¹)

(Sixth VAT Directive — Interpretation of Articles 13B(g) and 4(3)(a) — Supply of land occupied by a partly demolished building in place of which a new building is to be constructed — VAT Exemption)

(2010/C 24/21)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Applicant: Don Bosco Onroerend Goed BV

Defendant: Staatssecretaris van Financiën

Re:

Reference for a preliminary ruling — Hoge Raad der Nederlanden, The Hague — Interpretation of Article 4(3)(a), read in conjunction with Article 13B(g), 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) — Taxation of the supply of a building or part of a building and the adjacent ground prior to its first occupation — Supply of a partially demolished building by reason of its replacement by a new building to be constructed

Operative part of the judgment

Article 13B(g) of the 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, in conjunction with Article 4(3)(a) of the directive must be interpreted as meaning that the exemption from value added tax provided for in Article 13B(g) does not cover the supply of land still occupied by a dilapidated building that is to be demolished and replaced by a new building and whose demolition, paid for by the vendor, had already begun before the actual supply took place. For value added tax purposes, such supply and such demolition form a single transaction, given that, taken as a whole, the aim of the transactions was not to supply the existing building and the land it stands

on but land that has not been built on, regardless of how far demolition of the old building had progressed at the moment the land was actually supplied.

(¹) OJ C 69 of 21.03.2009

Judgment of the Court (Sixth Chamber) of 3 December 2009 — Commission of the European Communities v Kingdom of Belgium

(Case C-475/08) (¹)

(Failure of a Member State to fulfil obligations — Directive 2003/55/EC — Internal market in natural gas — Definitive designation of system operators — Decision exempting major new gas infrastructures from the application of certain provisions of Directive 2003/55/EC — Publication, consultation and notification obligations)

(2010/C 24/22)

Language of the case: French

Parties

Applicant: European Commission (represented by: M. Patakia and B. Schima, Agents)

Defendant: Kingdom of Belgium (represented by: C. Pochet, Agent, J. Scalais and O. Vanhulst, avocats)

Re:

Failure of a Member State to fulfil its obligations — Failure to adopt all the provisions necessary to comply with Articles 7, 11 and 18, in conjunction with Article 25(2), and Article 22(3)(d) and (e) and (4) of Directive 2003/55/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in natural gas and repealing Directive 98/30/EC (OJ 2003 L 176, p. 57) — Failure to designate systems operators for the transmission and storage of liquefied natural gas — No requirement to publish the decision exempting new large natural gas facilities from the application of the directive — No requirement to consult the other Member States or regulatory authorities concerned by the interconnection of those facilities.

Operative part of the judgment

The Court:

1. Declares that, by failing to designate transmission, storage and liquefied natural gas system operators on a definitive basis as required under Article 7 of Directive 2003/55/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in natural gas and repealing Directive 98/30/EC, and by failing to transpose Article 22(3)(d) and (e) and (4) of that directive, the Kingdom of Belgium has failed to fulfil its obligations under those provisions;

2. Orders the Kingdom of Belgium to pay the costs.

(¹) OJ C 32, 7.2.2009.

Judgment of the Court (Eighth Chamber) of 3 December 2009 — Evropaiki Dynamiki — Proigmena Systemata Tilepikoinonion Pliroforikis kai Tilematikis AE v European Commission

(Case C-476/08 P) (¹)

(Appeal — Regulations (EC, Euratom) Nos 1605/2002 and 2342/2002 — Public contracts awarded by the Community institutions on their own account — Error in the evaluation committee's report — Obligation to state reasons for the rejection of the tender's bid)

(2010/C 24/23)

Language of the case: English

Parties

Appellant: Evropaiki Dynamiki — Proigmena Systemata Tilepikoinonion Pliroforikis kai Tilematikis AE (represented by: N. Korogiannakis, dikigoros)

Other party to the proceedings: European Commission (represented by: M. Wilderspin and E. Manhaeve, Agents)

Re:

Appeal brought against the judgment of the Court of First Instance (Third Chamber) of 10 September 2008 in Case T-59/05 *Evropaiki Dynamiki — Proigmena Systemata Tilepikoinonion Pliroforikis kai Tilematikis AE v Commission of the European Communities* by which the Court of First Instance dismissed an action for the annulment of the Commission's decision of 23 November 2004 rejecting the tender submitted by the appellant in the tendering procedure relating to the provision of development, maintenance and related support services for the financial information systems of the Directorate-General for Agriculture and of the decision awarding the contract to another tenderer — Obligation to state reasons for the rejection of a submitted tender

Operative part of the judgment

The Court:

1. Dismisses the appeal;
2. Orders Evropaiki Dynamiki — Proigmena Systemata Tilepikoinonion Pliroforikis kai Tilematikis AE to pay the costs.

(¹) OJ C 19, 24.1.2009.