

Reference for a preliminary ruling from the Tribunal de première instance de Namur (Belgium) lodged on 26 November 2008 — Atenor Group SA v Belgian State — SPF Finances

(Case C-514/08)

(2009/C 32/32)

Language of the case: French

Referring court

Tribunal de première instance de Namur

Parties to the main proceedings

Applicant: Atenor Group SA

Defendant: Belgian State — SPF Finances

Question referred

Does the first indent 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 ⁽¹⁾ preclude national legislation making the deduction of dividends received as definitively taxed income subject to the existence of a taxable profit of the parent company?

⁽¹⁾ OJ 1990 L 225, p. 6.

Action brought on 25 November 2008 — Commission of the European Communities v Republic of Poland

(Case C-516/08)

(2009/C 32/33)

Language of the case: Polish

Parties

Applicant: Commission of the European Communities (represented by: M. Kaduczak and P. Dejmek, acting as Agents)

Defendant: Republic of Poland

Form of order sought

— declare that, by not adopting the laws, regulations and administrative provisions necessary to implement Commission Directive 2006/70/EC of 1 August 2006 laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of politically exposed person and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis ⁽¹⁾, and in any event by

not informing the Commission of the adoption of those provisions, the Republic of Poland has failed to fulfil its obligations under that directive;

— order the Republic of Poland to pay the costs.

Pleas in law and main arguments

The period for transposition of Directive 2006/70/EC expired on 15 December 2007.

⁽¹⁾ OJ L 214 of 4.8.2006, p. 29.

Reference for a preliminary ruling from the Tribunal de grande instance de Paris (France) lodged on 27 November 2008 — Fundació Gala-Salvador Dalí, Visual Entidad de Gestión de Artistas Plásticos v Société des Auteurs dans les arts graphiques et plastiques, Juan-Leonardo Bonet Domenech, Eulalia-María Bas Dalí, María Del Carmen Domenech Biosca, Antonio Domenech Biosca, Ana-María Busquets Bonet, Mónica Busquets Bonet

(Case C-518/08)

(2009/C 32/34)

Language of the case: French

Referring court

Tribunal de grande instance de Paris

Parties to the main proceedings

Applicants: Fundació Gala-Salvador Dalí, Visual Entidad de Gestión de Artistas Plásticos

Defendants: Société des Auteurs dans les arts graphiques et plastiques, Juan-Leonardo Bonet Domenech, Eulalia-María Bas Dalí, María del Carmen Domenech Biosca, Antonio Domenech Biosca, Ana-María Busquets Bonet, Mónica Busquets Bonet

Questions referred

1. Can France, subsequent to [Directive 2001/84/EC] of 27 September 2001 ⁽¹⁾, retain a resale right allowed only to the heirs to the exclusion of legatees or successors in title?
2. Do the transitional provisions of Article 8(2) and (3) of [Directive 2001/84/EC] of 27 September 2001 allow France to have a derogation?

⁽¹⁾ Directive 2001/84/EC of the European Parliament and of the Council of 27 September 2001 on the resale right for the benefit of the author of an original work of art (OJ L 272, p. 32).