

Reference for a preliminary ruling from the Hoge Raad der Nederlanden (The Netherlands) lodged on 4 December 2008 — Staatssecretaris van Financiën v Facet BV/Facet Trading BV

(Case C-539/08)

(2009/C 44/57)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Appellant: Staatssecretaris van Financiën

Respondent: Facet BV/Facet Trading BV

Question referred

Must Article 17(2) and (3) and Article 28b(A)(2) of the Sixth Directive ⁽¹⁾ be interpreted as meaning that, if the place of an intra-Community acquisition is deemed, on the basis of the first subparagraph of the latter provision, to be within the territory of the Member State which issued the VAT identification number under which the person acquiring made the acquisition, the aforementioned person acquiring the goods has the right immediately to deduct the VAT thus due in that Member State?

⁽¹⁾ Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (OJ L 145, p. 1).

Action brought on 4 December 2008 — Commission of the European Communities v Czech Republic

(Case C-544/08)

(2009/C 44/58)

Language of the case: Czech

Parties

Applicant: Commission of the European Communities (represented by: N. Yerrell, L. Jelínek, acting as Agents)

Defendant: Czech Republic

Form of order sought

The Commission claims the Court should:

- Declare that, by failing to adopt, within the period prescribed, all the laws, regulations and administrative provisions necessary to comply with Directive 2005/68/EC of the European Parliament and of the Council of 16 November 2005 on reinsurance and amending Council Directives 73/239/EEC, 92/49/EEC as well as Directives 98/78/EC and 2002/83/EC ⁽¹⁾, or in any event, by failing to inform the Commission thereof, the Czech Republic has failed to fulfil its obligations under Article 64 of that directive;
- order Czech Republic to pay the costs.

Pleas in law and main arguments

The period prescribed for implementing the Directive into the domestic legal order expired on 10 December 2007.

⁽¹⁾ OJ 2005 L 323, p. 1.

Appeal brought on 17 December 2008 by Le Carbone Lorraine against the judgment of the Court of First Instance (Fifth Chamber) delivered on 8 October 2008 in Case T-73/04 Le Carbone Lorraine v Commission

(Case C-554/08 P)

(2009/C 44/59)

Language of the case: French

Parties

Appellant: Le Carbone Lorraine (represented by: A. Winckler and H. Kanellopoulos, avocats)

Other party to the proceedings: Commission of the European Communities

Form of order sought

- set aside, in part, under Article 225(1) EC and Article 61 of the Statute of the Court of Justice, the judgment of the Court of First Instance of 8 October 2008 in Case T-73/04 *Le Carbone Lorraine v Commission*;
- allow the claims submitted by Le Carbone Lorraine at first instance and, consequently, on the basis of Article 229 EC, Article 61 of the Statute of the Court of Justice and Article 17 of Council Regulation No 17/62 ⁽¹⁾, now Article 31 of Council Regulation No 1/2003 ⁽²⁾, reduce the amount of the fine imposed on Le Carbone Lorraine by the Commission in its decision of 3 December 2003 in Case C.38.359 — Electrical and mechanical carbon and graphite products ⁽³⁾;
- order the Commission to pay the costs.