

national measure contrary to European Union law, on the ground that that part of the tax had been subsidised by aid granted to the taxable person and financed by the European Union and by that State, provided that the economic burden relating to the refusal to deduct value added tax has been completely neutralised, which is for the national court to determine.

(¹) OJ C 243, 11.8.2012.

**Judgment of the Court (Seventh Chamber) of 13 June 2013
— European Commission v French Republic**

(Case C-193/12) (¹)

(Failure of a Member State to fulfil obligations — Directive 91/676/EEC — Protection of waters against pollution caused by nitrates from agricultural sources — Designation of vulnerable zones — Excessive nitrate content — Eutrophication — Obligation of four-yearly revision)

(2013/C 225/55)

Language of the case: French

Parties

Applicant: European Commission (represented by: J. Hottiaux and B. Simon, acting as Agents)

Defendant: French Republic (represented by: G. de Bergues and S. Menez, acting as Agents)

Re:

Failure of a Member State to fulfil obligations — Infringement of Article 3(1) and (4) of Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources (OJ 1991 L 375, p. 1) and Annex I thereto — Incomplete identification of vulnerable zones — Excessive nitrate content — Eutrophication — Incorrect four-yearly revision

Operative part of the judgment

The Court:

1. Declares that, by failing to designate as vulnerable zones a number of zones characterised by the presence of surface and groundwater bodies which are, or may be, affected by excessive nitrate content and/or eutrophication, the French Republic has failed to fulfil its obligations under Article 3(1) and (4) of Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources, and Annex I thereto;
2. Orders the French Republic to pay the costs.

(¹) OJ C 217, 21.7.2012.

**Judgment of the Court (Second Chamber) of 20 June 2013
(request for a preliminary ruling from the Verwaltungsgerichtshof — Austria) — Finanzamt Freistadt Rohrbach
Urfahr v Unabhängiger Finanzsenat Außenstelle Linz**

(Case C-219/12) (¹)

(Sixth VAT Directive — Article 4(1) and (2) — Concept of ‘economic activities’ — Deduction of input tax — Operation of a photovoltaic installation on the roof of a house which is used as a dwelling — Supply to the network — Remuneration — Electricity production lower than consumption)

(2013/C 225/56)

Language of the case: German

Referring court

Verwaltungsgerichtshof

Parties to the main proceedings

Applicant: Finanzamt Freistadt Rohrbach Urfahr

Defendant: Unabhängiger Finanzsenat Außenstelle Linz

In the presence of: Thomas Fuchs

Re:

Request for a preliminary ruling — Verwaltungsgerichtshof — Interpretation of Article 4 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) — Concept of ‘economic activity’ — Photovoltaic installation for electricity production near a private dwelling without a power storage unit — Sale of the energy produced to a company which resupplies that dwelling with the energy which it requires — Energy production lower than consumption in the long term

Operative part of the judgment

Article 4(1) and (2) 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, as amended by Council Directive 95/7/EC of 10 April 1995, must be interpreted as meaning that the operation of a photovoltaic installation on or adjacent to a house which is used as a dwelling, which is designed such that the electricity produced is (i) always less than the electricity privately consumed by its operator and (ii) supplied to the network in exchange for income on a continuing basis, falls within the concept of ‘economic activities’ as defined in that Article.

(¹) OJ C 243, 11.8.2012.