



Reports of Cases

Judgment of the Court (Fourth Chamber) of 25 February 2016 —

Commission v Netherlands

(Case C-22/15)¹

(Failure of a Member State to fulfil obligations — Value added tax — Directive 2006/112/EC — Exemptions — Article 132(1)(m) — Supply of services closely linked to sport or physical education — Exemption for the hiring out of berths and sites for the storage of boats to the members of water sports associations in the context of sailing or leisure activities which cannot be equated with the practice of sport or physical education — Exemption limited to the members of water sports associations which have no employees for the provision of their services — Excluded — Point (d) of the first paragraph of Article 133)

- 1. Harmonisation of fiscal legislation — Common system of value added tax — Exemptions — Exemption for certain services closely linked to sport or physical education supplied by non-profit-making organisations to persons taking part in those activities — National legislation exempting the hiring out of berths and sites for the storage of boats to the members of water sports associations in the context of sailing or leisure activities which cannot be equated with the practice of sport or physical education — Not permissible (Council Directive 2006/112, Art. 132(1)(m)) (see paras 21-25, 28, 29)*
- 2. Harmonisation of fiscal legislation — Common system of value added tax — Exemptions — Exemption for certain services closely linked to sport or physical education supplied by non-profit-making organisations to persons taking part in those activities — National legislation which limits the exemption to the members of water sports associations which have no employees for the provision of their services — Not permissible (Council Directive 2006/112, Arts 132(1)(m) and 133, first para., (d)) (see paras 43-44)*

¹ — OJ C 228, 13.7.2015.

Operative part

The Court:

1. Declares that the Kingdom of the Netherlands has failed to fulfil its obligations under Articles 2(1), 24(1) and 133 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, in conjunction with Article 132(1)(m) thereof:
 - by exempting from value added tax, in the context of sailing or leisure activities which cannot be equated with the practice of sport or physical education, the hiring out of berths and sites for the storage of boats to the members of water sports associations which have no employees for delivery of their services, and
 - by limiting, in cases where the berths and sites for the storage of boats are hired out to persons taking part in sport and that hiring-out is closely linked to and essential for the practice of that sport, the exemption for hiring-out to water sports associations which have no employees for delivery of their services.
2. Orders the Kingdom of the Netherlands to pay the costs.