

- 2) Are Article 49 et seq. TFEU and Article 56 et seq. TFEU and the principles laid down by the Court of Justice of the European Union in *Costa and Cifone* to be interpreted as precluding the possibility that sufficient justification for the shorter period of validity of licences offered for tender, as compared with licences awarded in the past, can be found in the requirement for the licensing system to be reorganised through the alignment of licence expiry dates?

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**Action brought on 3 November 2014 — European Commission v French Republic**

**(Case C-485/14)**

(2015/C 007/24)

*Language of the case: French*

**Parties**

*Applicant:* European Commission (represented by: J.-F. Brakeland and W. Roels, acting as Agents)

*Defendant:* French Republic

**Form of order sought**

- Declare that, by exempting from *droits de mutation à titre gratuit* (duty payable on transfers for which no consideration is given) gifts and legacies to public bodies or to charitable bodies only where such bodies are established in France, in a Member State or in a State which is party to the Agreement on the European Economic Area which has concluded a bilateral agreement with France, the French Republic has failed to fulfil its obligations under Article 63 of the Treaty on the Functioning of the European Union and Article 40 of the Agreement on the European Economic Area, and
- order French Republic to pay the costs.

**Pleas in law and main arguments**

According to the Commission, French legislation, as interpreted by the tax authorities, exempts from *droits de mutation à titre gratuit* gifts and legacies to public bodies or to charitable bodies only where such bodies are established in France, in a Member State or in a State which is party to the Agreement on the European Economic Area which has concluded a bilateral agreement with France. The Commission considers that that constitutes a restriction on free movement of capital, contrary to Article 56 EC and Article 40 of the EEA Agreement.

By way of justification for such an arrangement, the French Republic claims, as its principal argument, that French legislation makes a distinction between tax payers who are not in an objectively comparable situation and, in the alternative, puts forward a public interest argument, based on the need to collect taxes.

The Commission contests that justification. In its view, the contested provisions make a distinction on the basis of criteria that are purely geographical. Moreover, the Commission considers that the public interest plea relied on does not satisfy the requirements laid down by case-law, in particular the judgment in *Persche* <sup>(1)</sup>. Lastly, the Commission is of the view that the restriction on the movement of capital is, in any event, disproportionate.

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<sup>(1)</sup> Judgment in *Persche*, C-318/07, ECLI:EU:C:2009:33.