

**Reference for a preliminary ruling by the Retten i Hørsholm (Denmark) by order of that court of 4 June 2004 in the case of Anklagemyndigheden against Steffen Ryborg**

(Case C-279/04)

(2004/C 228/50)

Reference has been made to the Court of Justice of the European Communities by the Retten i Hørsholm (Denmark), by order of 4 June 2004, which was received at the Court Registry on 28 June 2004, for a preliminary ruling in the case of Anklagemyndigheden against Steffen Ryborg.

The Retten i Hørsholm asks the Court of Justice to give a preliminary ruling on the following questions:

- 1.a. Are Article 39 EC, Article 49 EC and Article 10 EC to be interpreted as precluding a Member State from requiring registration of a motor vehicle when the vehicle belongs to an employer established in a neighbouring Member State and is used by an employee who is resident in the first-mentioned Member State for work purposes and during his free time in both Member States?
- 1.b. If in the assessment for question 1.a weight is to be accorded to whether any private use of the vehicle is ancillary to business use, which criteria should be used by the national court in determining whether the non-business use of the vehicle is ancillary to the business use, when it can be assumed that the vehicle is used for business purposes, see Case C-127/86 Yves Ledoux [1988] ECR 3741, paragraph 18?

**Reference for a preliminary ruling by the Vestre Landsret by order of that court of 25 June 2004 in the case of Jyske Finans against Skatteministeriet**

(Case C-280/04)

(2004/C 228/51)

Reference has been made to the Court of Justice of the European Communities by order of the Vestre Landsret (Western Regional Court) (Denmark) of 25 June 2004, which was received at the Court Registry on 29 June 2004, for a preliminary ruling in the case of Jyske Finans against Skatteministeriet (Finance Ministry) on the following questions:

1. Must Article 13.B(c), in conjunction with Articles 2(1) and 11.A(1)(a), of the Sixth VAT Directive 77/388/EEC<sup>(1)</sup> be construed as precluding a Member State from maintaining a legal situation under its law on value added tax pursuant to which a taxable person who has introduced capital items to a significant extent into his business assets is, in contrast to second-hand car dealers and other traders who sell second-

hand cars, liable to VAT on the sale of those capital items, even in the case where the items were purchased from taxable persons who did not declare tax on the price of the items, with the result that there was no possibility of deducting VAT at the time of acquisition?

2. Must Article 26a.A(e) of the Sixth VAT Directive be construed as meaning that the term 'taxable dealer' covers only persons whose principal activity consists in the purchase and sale of second-hand goods in cases where the second-hand goods in question are acquired with the sole or principal purpose of obtaining a financial profit on their resale, or does that term also cover persons who normally dispose of those goods by sale at the end of a leasing period as a subsidiary link in the overall economic leasing activity under the circumstances outlined above?

<sup>(1)</sup> 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, corrigendum at OJ 1977 L 149, p. 26).

**Appeal brought on 25 June 2004 by Michael Leighton, Graham French and John Neiger against the order made on 3 May 2004 by the Fifth Chamber of the Court of First Instance of the European Communities in case T-24/04 between Michael Leighton, Graham French and John Neiger and the Council of the European Union and the Commission of the European Communities.**

(Case C-281/04 P)

(2004/C 228/52)

An appeal against the order made on 3 May 2004 by the Fifth Chamber of the Court of First Instance of the European Communities in case T-24/04 between Michael Leighton, Graham French and John Neiger and the Council of the European Union and the Commission of the European Communities, was brought before the Court of Justice of the European Communities on 25 June 2004 by Michael Leighton, Graham French and John Neiger, represented by J.S. Barnett, Solicitor-Advocate.

The Appellants claims that the Court should:

- set aside the order
- grant the relief sought by the Appellants in the form of the draft order annexed to the Application; alternatively
- remit the case to the Court of First Instance; and in any event
- order the Defendants to pay the Appellants' costs.