

Re:

Reference for a preliminary ruling — Hajdú-Bihar Megyei Bíróság — Interpretation of the first paragraph of Art. 90 EC — Registration duty charged on motor vehicles when they are first placed in circulation in the Member State which is not charged on used motor vehicles placed in circulation in the Member State before 1 February 2004 and which is calculated independently of the value of the motor vehicle

Judgment of the Court (Fourth Chamber) of 28 September 2006 — Commission of the European Communities v Grand Duchy of Luxembourg

(Case C-353/05) ⁽¹⁾

(Failure of a Member State to fulfil obligations — Directive 2003/54/EC — Failure to transpose within the period prescribed)

(2006/C 294/28)

Operative part of the judgment

Language of the case: French

1) A tax such as that imposed in Hungary by Law No CX of 2003 on registration duty (a regisztrációs adóról szóló 2003. évi CX. törvény), which does not apply to private motor vehicles by reason of the fact that they cross the frontier, does not constitute a customs duty on imports or a charge having equivalent effect within the meaning of Articles 23 EC and 25 EC.

2) The first paragraph of Article 90 EC has to be interpreted as precluding a tax such as that imposed by the Law on registration duty in so far as

— it is charged on used vehicles when they are first placed in circulation in the territory of a Member State, and

— its amount, which is determined exclusively by the vehicles' technical characteristics (engine type, engine capacity) and their environmental classification, is calculated without taking the depreciation of the vehicles into account, in such a way that, when applied to used vehicles imported from other Member States, it exceeds the amount of that duty included in the residual value of similar used vehicles which have already been registered in the Member State of importation.

A comparison with used vehicles placed into circulation in the Member State in question before the introduction of that duty is not relevant.

3) Article 33 of the 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, does not preclude the levy of a tax such as that imposed by the Law on registration duty for which turnover is not the basis of assessment and which does not give rise, in trade between Member States, to formalities connected with the crossing of frontiers.

⁽¹⁾ OJ C 296, 26.11.2005.
OJ C 315, 10.12.2005.

Parties

Applicant: Commission of the European Communities (represented by: B. Schima and F. Simonetti, Agents)

Defendant: Grand Duchy of Luxembourg (represented by: S. Schreiner, Agent)

Re:

Failure of a Member State to fulfil obligations — Failure to adopt, within the period prescribed, the provisions necessary to comply with Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity and repealing Directive 96/92/EC — Statements made with regard to decommissioning and waste management activities (OJ 2003 L 176, p. 37)

Operative part of the judgment

The Court (Fourth Chamber):

1. Declares that, by failing to adopt, within the period prescribed, the laws, regulations and administrative provisions necessary to comply with Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity and repealing Directive 96/92/EC, the Grand Duchy of Luxembourg has failed to fulfil its obligations under that directive;

2. Orders the Grand Duchy of Luxembourg to pay the costs.

⁽¹⁾ OJ C 281, 12. 11. 2005.