

Judgment of the Court (Second Chamber) of 15 June 2006 – Commission v Finland

(Case C-249/05)

Failure of a Member State to fulfil obligations – Articles 28 EC and 49 EC – Sixth VAT Directive – Articles 21 and 22 – Obligation for a taxable person who is established in a Member State other than the one where he carries out taxable transactions to appoint a tax representative who is not directly liable to pay VAT

Tax provisions – Harmonisation of laws – Turnover taxes – Common system of value added tax – Persons liable to pay the tax (Council Directive 77/388, Arts 21 and 22) (see para. 56, operative part)

Re:

Failure of a Member State to fulfil obligations – Infringement of Articles 28 EC and 49 EC and Articles 21 and 22 of Directive 77/388/EEC: Sixth Council Directive 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) – National legislation imposing the obligation, for a taxable person who is not established in a country, but who carries out taxable transactions there, to appoint a tax representative who is not directly liable to pay the tax.

Operative part:

The Court:

1.

Declares that, by imposing the appointment of a tax representative on taxable persons not established in Finland, but who carry out taxable transactions there and are established in another Member State or in a non-member country with which a convention has been concluded concerning mutual assistance of the competent authorities as regards indirect taxes, the scope of which corresponds to the scope defined in Council Directive 76/308/EEC of 15 March 1976 on mutual assistance for the recovery of claims relating to certain levies, duties, taxes and other measures, as amended by Council Directive 2001/44/EC of 15 June 2001, and in Council Regulation (EC) No 1798/2003 of 7 October 2003 on administrative cooperation in the field of value added tax and repealing Regulation (EEC) No 218/92, the Republic of Finland has failed to fulfil its obligations under Articles 21 and 22 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 2001/115/EC of 20 December 2001;

2.

Orders the Republic of Finland to pay the costs.