

**Order of the Court (Third Chamber) of 5 February 2009 – Mechel Nemunas v Valstybinė mokesčių inspekcija prie Lietuvos Respublikos finansų ministerijos**

**(Case C-119/08)**

First subparagraph of Article 104(3) of the Rules of Procedure – First VAT Directive – Sixth VAT Directive – Article 33(1) – Concept of ‘turnover taxes’ – Tax calculated on the basis of an undertaking’s turnover to finance the maintenance and development programme for national roads

Tax provisions – Harmonisation of laws – Turnover taxes – Common system of value added tax – Prohibition on the levying of other domestic taxes which can be characterised as turnover taxes (Council Directive 77/388, Art. 33(1)) (see paras 34-38, operative part)

**Re:**

Reference for a preliminary ruling – Lietuvos vyriausioji administracinis teismas – Interpretation of First Council Directive 67/227/EEC of 11 April 1967 on the harmonisation of legislation of Member States concerning turnover taxes (OJ, English Special Edition 1967, p. 14) and of Article 33 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 (OJ 1977 L 45, p. 1) – Lithuanian road tax calculated on the basis of an undertaking’s turnover to finance the maintenance and development programme for national roads.

**Operative part**

Article 33 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 91/680/EEC of 16 December 1991, must be interpreted as meaning that it does not preclude a tax such as the levy on revenue laid down by the Lithuanian Law on the financing of the road maintenance and development programme (Lietuvos Respublikos kelių priežiūros ir plėtros programos finansavimo įstatymas).