

**Judgment of the Court (Second Chamber) of 25 March 2010 – Commission v Netherlands
(Case C-79/09)**

Failure of Member State to fulfil obligations – Value added tax – Directive 2006/112/EC – Articles 13 and 132 – Bodies governed by public law – Capacity as public authorities – Activities – Treatment as non-taxable persons – Exemptions – Socio-cultural, health and education sectors – ‘Euroregions’ – Promotion of work mobility – Making available of personnel – Burden of proof

1. *Actions for failure to fulfil obligations – Pre-litigation procedure – Subject-matter (Art. 226 EC) (see paras 21-24)*

2. *Tax provisions – Harmonisation of laws – Turnover taxes – Common system of value added tax – Exemptions (Council Directive 2006/112, Arts 132(1)(b), (g) and (i), and 134) (see paras 54, 60-64)*

3. *Tax provisions – Harmonisation of laws – Turnover taxes – Common system of value added tax – Taxable persons – Bodies governed by public law – Treatment as non-taxable persons in respect of activities in which they engage as public authorities (Council Directive 2006/112, Art. 13, (1), first para. and second para.) (see paras 79, 82-84, 89, 91-95)*

Re:

Failure of a Member State to fulfil its obligations – Infringement of Articles 2(1)(c), 13, 24(1) and 132 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1) – Making available of personnel in the health, education and socio-cultural sectors – Promotion of work mobility – Euroregion.

Operative part:

The Court:

1.

Dismisses the action;

2.

Orders the European Commission to pay the costs.