

Judgment of the Court (Eighth Chamber) of 15 December 2011 – Commission v France

(Case C-624/10)

Failure of a Member State to fulfil obligations – Taxation – Directive 2006/112/EC – Articles 168, 171, 193, 194, 204 and 214 – Legislation of a Member State obliging a seller or provider established outside the national territory to designate a tax representative and to identify himself for VAT purposes in that Member State – Legislation allowing deductible VAT paid by the seller or provider established outside the national territory to be offset against the VAT collected by him in the name and for the account of his customers

Tax provisions – Harmonisation of laws – Turnover taxes – Common system of value added tax – Persons liable to pay the tax – Derogations from a national reverse charge system – National legislation requiring of a seller or provider established outside the Member State concerned the designation of a tax representative and identification for value added tax purposes in that Member State – Legislation additionally authorising that seller or provider to offset the deductible tax paid against that collected in the name and for the account of its customers – Failure to fulfil obligations (Council Directive 2006/112, Arts 168, 171, 193, 194, 204 and 214) (see paras 39, 42, 46, 50)

Re:

Failure of a Member State to fulfil obligations – Infringement of Articles 168, 171, 193, 194, 204 and 214 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1) – National legislation imposing the designation of a tax representative by a seller or provider established outside the national territory – Duty of identification for VAT purposes – Nature and extent of the right to deduct.

Operative part

The Court:

1.

Declares that, by providing in Title IV of Administrative Instruction 3 A-9-06 No 105 of 23 June 2006 for an administrative concession derogating from a value added tax reverse charge scheme and necessitating, among other things, the designation of a tax representative by a seller or provider established outside France, the identification of that seller or provider for value added tax purposes in France and the offsetting of the deductible value added tax that he has paid against that which he has collected in the name and on behalf of his or her customers, the French Republic has failed to fulfil its obligations under Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, and, in particular, Articles 168, 171, 193, 194, 204 and 214 thereof;

2.

Orders the French Republic to pay the costs.