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## 61991C0287

Opinion of Mr Advocate General Gulmann delivered on 6 May 1992. - Commission of the European Communities v Italian Republic. - Failure by a Member State to fulfil its obligations - Delays in the refund of VAT to taxable persons not established in the territory of the country. - Case C-287/91.

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## **Opinion of the Advocate-General**

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Mr President,

Members of the Court,

- 1. Council Directive 79/1072/EEC of 6 December 1979 on the harmonization of the laws of the Member States relating to turnover taxes ° Arrangements for the refund of value added tax to taxable persons not established in the territory of the country (1) should, under the first paragraph of Article 10 thereof, have been implemented by the Member States no later than 1 January 1981.
- 2. The Commission takes the view that the Italian Republic has failed to fulfil its obligation to comply with the directive and has therefore brought proceedings for a declaration that:
- ° by allowing the Ministero delle Finanze systematically to disregard the time-limits for refunds of value added tax to taxable persons not established in the territory of the country, without intervening from the outset to remove the consequent harm to Community law, the Italian Republic has failed to fulfil its obligations under Article 7(4) of the Eighth Council Directive (79/1072/EEC) of 6 December 1979 on arrangements for the refund of value added tax to taxable persons not established in the territory of the country;

The Italian Republic has not denied that it has failed to ensure compliance with the directive, as the Commission has claimed.

- 3. Accordingly I have no choice but to propose to the Court that it deliver a judgment in accordance with the Commission's claims.
- (\*) Original language: Danish.

<sup>°</sup> and that the Italian Republic should be ordered to bear the costs.

(1) ° OJ 1979 L 331, p. 11.