

**Judgment of the Court (Fourth Chamber) of 25 April 2013  
— European Commission v Czech Republic**

(Case C-109/11) <sup>(1)</sup>

*(Failure of a Member State to fulfil obligations — Taxation — Directive 2006/112/EC — Articles 9 and 11 — National legislation authorising persons not subject to taxation to be part of a VAT group)*

(2013/C 171/08)

Language of the case: Czech

**Parties**

*Applicant:* European Commission (represented by: R. Lyal, D. Triantafyllou, K. Walkerová and P. Němečková, Agents)

*Defendant:* Czech Republic (represented by: M. Smolek, T. Müller and J. Očková, Agents)

*Interveners in support of the defendant:* Kingdom of Denmark (represented: initially by C. Vang, then by V. Pasternak Jørgensen, Agents), Ireland (represented by: D. O'Hagan, Agent, assisted by G. Clohessy, SC, and by N. Travers, BL), Republic of Finland (represented by: H. Leppo and S. Hartikainen, Agents), United Kingdom of Great Britain and Northern Ireland (represented by: H. Walker, Agent, assisted by M. Hall, QC)

**Re:**

Failure of a Member State to fulfil obligations — Breach of Articles 9 and 11 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 authorising persons not subject to taxation to be part of a VAT group

**Operative part**

*The Court:*

1. Dismisses the action;
2. Orders the European Commission to pay the costs;
3. Orders the Kingdom of Denmark, Ireland, the Republic of Finland and the United Kingdom of Great Britain and Northern Ireland to bear their own respective costs.

<sup>(1)</sup> OJ C 160, 28.5.2011.

**Judgment of the Court (Third Chamber) of 25 April 2013  
(request for a preliminary ruling from the Tribunal Supremo — Spain) — Jyske Bank Gibraltar Ltd v Administración del Estado**

(Case C-212/11) <sup>(1)</sup>

*(Prevention of the use of the financial system for the purposes of money laundering and terrorist financing — Directive 2005/60/EC — Article 22(2) — Decision 2000/642/JHA — Requirement to report suspicious financial transactions applicable to credit institutions — Institution operating under the rules on the freedom to provide services — Identification of the national financial information unit responsible for the collection of information — Article 56 TFEU — Obstacle to freedom to provide services — Overriding requirements in the public interest — Proportionality)*

(2013/C 171/09)

Language of the case: Spanish

**Referring court**

Tribunal Supremo

**Parties to the main proceedings**

*Applicant:* Jyske Bank Gibraltar Ltd

*Defendant:* Administración del Estado

**Re:**

Request for a preliminary ruling — Tribunal Supremo — Interpretation of Article 22(2) of Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (OJ 2005 L 309, p.15) — National legislation under which it is a direct and mandatory requirement that the information which must be provided by credit institutions operating in its territory without a permanent establishment be forwarded by them directly to the competent national authorities of that State

**Operative part of the judgment**

Article 22(2) of Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing must be interpreted as not precluding legislation of a Member State which requires credit institutions to communicate the information required for the purpose of combating money laundering and terrorist financing directly to the FIU of that Member State where the institutions carry out their activities in that State under the freedom to provide services, to the extent that that legislation does not compromise the effectiveness of that directive and of Council Decision 2000/642/JHA of 17 October 2000 concerning arrangements for cooperation between financial intelligence units of the Member States in respect of exchanging information;

Article 56 TFEU must be interpreted as not precluding such legislation if the latter is justified by overriding reasons in the public

interest, secures the attainment of the aim in view and does not go beyond that which is necessary in order to attain it, and is applied in a non-discriminatory manner, which it is for the national court to ascertain taking account of the following considerations:

- such legislation is appropriate to attain the aim of preventing money laundering and terrorist financing if it enables the Member State concerned effectively to supervise and suspend suspicious financial transactions concluded by credit institutions offering their services in the national territory and, if appropriate, to pursue and punish those responsible;
- the obligation imposed by that legislation on credit institutions carrying out their activities under the freedom to provide services may constitute a proportionate measure in pursuit of that aim in the absence, at the time of the facts in the main proceedings, of any effective mechanism guaranteeing full and complete cooperation between financial intelligence units.

(<sup>1</sup>) OJ C 226, 30.7.2011.

#### **Judgment of the Court (Tenth Chamber) of 25 April 2013 — European Commission v Slovak Republic**

(Case C-331/11) (<sup>1</sup>)

**(Failure of a Member State to fulfil obligations — Directive 1999/31/EC — Landfill of waste — Article 14 — Existing landfill — Lack of site conditioning plan — Continued operation)**

(2013/C 171/10)

Language of the case: Slovak

#### **Parties**

**Applicant:** European Commission (represented by: A. Marghelis and A. Tokár, acting as Agents)

**Defendant:** Slovak Republic (represented by: B. Ricziová, acting as Agent)

#### **Re:**

Failure of a Member State to fulfil obligations — Infringement of Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste (OJ 1999 L 182, p. 1) — Operation of the Žilina-Považský Chlmec waste site without a site conditioning plan

#### **Operative part of the judgment**

The Court:

1. Declares that, by authorising the operation of the Žilina-Považský Chlmec waste site without a site conditioning plan and in the absence of a final decision on the continued operation on the basis of an approved site conditioning plan, the Slovak Republic has failed to comply with its obligations under Article 14(a) to (c) of Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste;

2. Orders the Slovak Republic to pay the costs.

(<sup>1</sup>) OJ C 282, 24.9.2011.

#### **Judgment of the Court (Third Chamber) of 25 April 2013 (request for a preliminary ruling from the High Court — Ireland) — Thomas Hogan and Others v Minister for Social and Family Affairs and Others**

(Case C-398/11) (<sup>1</sup>)

**(Reference for a preliminary ruling — Social policy — Approximation of laws — Protection of employees in the event of the insolvency of their employer — Directive 2008/94/EC — Scope — Supplementary occupational pension schemes — Defined benefit and balance of costs scheme — Insufficiency of resources — Minimum level of protection — Economic crisis — Balanced economic and social development — Obligations of the Member States concerned in the event of insufficiency of resources — Liability of the Member State in the event of incorrect transposition)**

(2013/C 171/11)

Language of the case: English

#### **Referring court**

High Court (Ireland)

#### **Parties to the main proceedings**

**Plaintiffs:** Thomas Hogan, John Burns, John Dooley, Alfred Ryan, Michael Cunningham, Michael Dooley, Denis Hayes, Marion Walsh, Joan Power, Walter Walsh

**Defendants:** Minister for Social and Family Affairs, Ireland, Attorney General

#### **Re:**

Request for a preliminary ruling — High Court (Ireland) — Interpretation of Articles 1(1) and (8) of Directive 2008/94/EC of the European Parliament and of the Council of 22 October 2008 on the protection of employees in the event of the insolvency of their employer (Codified version) (OJ 2008 L 283, p. 36) — Supplementary occupational pension schemes — Insufficiency of resources of those schemes — National legislation which does not provide a legal basis for employees to obtain compensation from their employer in consequence of the insolvency of the undertaking — Obligation of the Member State concerned to adopt the necessary measures to protect the interest of employees — Factors to be taken into account in the national court's assessment of compliance with that obligation

#### **Operative part of the judgment**

1. Directive 2008/94/EC of the European Parliament and of the Council of 22 October 2008 on the protection of employees in the event of the insolvency of their employer must be interpreted as meaning that it applies to the entitlement of former employees to old-age benefits under a supplementary pension scheme set up by their employer.