

Operative part of the judgment

The status of an 'employed person', within the meaning of Article 1(a) of Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community, in the version amended and updated by Council Regulation (EC) No 118/97 of 2 December 1996, as amended by Council Regulation (EC) No 1606/98 of 29 June 1998, must be attributed to a person in a situation such as that of the claimant in the main proceedings during the six-month period of extended unpaid leave following the birth of her child, on condition that, during that period, that person is covered, even if only in respect of a single risk, on a compulsory or optional basis, by a general or special social security scheme mentioned in Article 1(a) of that regulation. It is for the national court to determine whether that condition is satisfied in the dispute before it.

⁽¹⁾ OJ C 63, 13.3.2010.

Judgment of the Court (Fourth Chamber) of 10 March 2011 (reference for a preliminary ruling from the Regeringsrätten (Sweden)) — Skandinaviska Enskilda Banken AB Momsgrupp v Skatteverket

(Case C-540/09) ⁽¹⁾

(Reference for a preliminary ruling — Sixth VAT Directive — Article 13B(d)(5) — Exemptions — Underwriting guarantee provided against payment of a commission by credit institutions to the issuing companies in respect of a share issue on the capital markets — Transactions in securities)

(2011/C 139/12)

Language of the case: Swedish

Referring court

Regeringsrätten

Parties to the main proceedings

Applicant: Skandinaviska Enskilda Banken AB Momsgrupp

Defendant: Skatteverket

Re:

Reference for a preliminary ruling — Högsta förvaltningsdomstolen (formerly Regeringsrätten) — Interpretation of Article 13 B 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 145, p. 1) — Exemptions —

Underwriting guarantee issued by a bank to a company issuing new shares in return for payment of a commission — Transaction consisting in an undertaking by the bank to acquire part of the shares in the issuing company in the event that an insufficient number of shares is subscribed, in order to guarantee to the issuing company the financing sought by the issue (underwriting)

Operative part of the judgment

Article 13B(d)(5) 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 must be interpreted as meaning that the exemption from VAT laid down therein covers services supplied by a credit institution, for consideration, in the form of an underwriting guarantee to a company wishing to issue shares, where under that guarantee the credit institution undertakes to acquire any shares which are not subscribed within the period for share subscription.

⁽¹⁾ OJ C 51, 27.2.2010.

Judgment of the Court (Seventh Chamber) of 17 March 2011 — European Commission v Portuguese Republic

(Case C-23/10) ⁽¹⁾

(Failure of a Member State to fulfil obligations — Placing fresh bananas in free circulation — Weight declared not corresponding to actual weight — Obligation of customs authorities to check the weight declared — Community Customs Code — Regulation (EEC) No 2913/92 — Article 68 et seq. — Regulation (EEC) No 2454/93 — Article 290a — Annex 38b — System of own resources — Loss of revenue — Regulation (EEC, Euratom) No 1552/89 — Regulation (EC, Euratom) No 1150/2000 — Articles 2, 6, 9, 10 and 11)

(2011/C 139/13)

Language of the case: Portuguese

Parties

Applicant: European Commission (represented by: A. Caeiros, Agent)

Defendant: Portuguese Republic (represented by: I. Inez Fernandes, Agent)

Re:

Failure of a Member State to fulfil obligations — Infringement of Article 68 et seq. of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ 1992 L 302, p. 1), of Article 290a of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation