Judgment of the Court (Third Chamber) of 11 May 2006 — Commission v Italy

(Case C-197/03)

Failure of a Member State to fulfil obligations — Directive 69/335/EEC —Articles 10 and 12 — Indirect taxes on the raising of capital — Principles of Community law relating to recovery of undue payment

1. *Tax provisions — Harmonisation of laws — Indirect taxes on the raising of capital (Council Directive 69/335, Arts 10 and 12(1)(e)) (see paras 35-39 and operative part)*

2. *Community law — Direct effect — National charges incompatible with Community law — Repayment (see paras 43-46 and operative part)*

Re:

Failure of a Member State to fulfil obligations — Infringement of Art. 10(c) of Council Directive 68/335/EEC of 17 July 1969 concerning indirect taxes on the raising of capital (OJ, English Special Edition (1969)(II), p. 412) — National law retroactively imposing an annual flat-rate charge on the registration of documents other than companies' instruments of incorporation and laying down a discriminatory and restrictive regime for recovery of the annual charge on registration of instruments of incorporation.

Operative part

The Court:

1. Declares that, by introducing retroactive charges which do not constitute duties paid by way of permitted fees or dues where the registrations in the register of companies for which they are charged have already given rise to charges for which the retroactive charges are intended to be a substitute but

which are not reimbursed to those who have paid them, or where those retroactive charges relate to years in which no registration in the register was made justifying their being levied, and by adopting provisions making repayment of a tax held to be contrary to Community law by a judgment of the Court, or whose incompatibility with Community law is apparent from such a judgment, subject to conditions relating specifically to that tax which are less favourable than those which would otherwise be applied to repayment of the tax in question, the Italian Republic has failed to fulfil its obligations under Articles 10 and 12(1)(e) of Council Directive 69/335/EEC of 17 July 1969 concerning indirect taxes on the raising of capital and under the principles identified by the Court in relation to recovery of undue payment.

2. Dismisses the action as to the remainder.

3. Orders the Italian Republic to bear three quarters of the total costs and the Commission of the European Communities to bear the other quarter.

Order of the Court (Second Chamber) of 11 May 2006 — Confcooperative and Others

(Case C-231/04)

First subparagraph of Article 104(3) of the Rules of Procedure — External relations — Agreement between the EC and Hungary on the reciprocal protection and control of wine names — Protection in the Community of a name relating to certain wines originating in Hungary — Geographical indication 'Tokaj' — Exchange of letters — Possibility of using the word 'Tocai' in the term 'Tocai friulano' or 'Tocai