

Parties to the main proceedings

Applicant: SMS group GmbH

Defendant: Direcția Generală Regională a Finanțelor Publice București

Operative part of the judgment

Eighth Council Directive 79/1072/EEC of 6 December 1979 on the harmonisation 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, read in conjunction with Article 170 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, must be interpreted as precluding a refusal by a Member State to refund the value added tax paid on the importation of goods to a taxable person who is not established on its territory in circumstances such as those in the main proceedings where, at the time of importation, the performance of the contract in connection with which the taxable person purchased and imported those goods was suspended, the transaction for which they were intended to be used was in the end not carried out, and the taxable person did not provide proof of their subsequent movements.

⁽¹⁾ OJ C 419, 14.11.2016.

Request for a preliminary ruling from the Krajowa Izba Odwoławcza (Poland) lodged on 24 January 2017 — Saferoad Grawil sp. z o.o., Saferoad Kabex sp. z o.o. v Generalna Dyrekcja Dróg Krajowych i Autostrad Oddział w Poznaniu

(Case C-35/17)

(2017/C 392/15)

Language of the case: Polish

Referring court

Krajowa Izba Odwoławcza

Parties to the main proceedings

Appellants: Saferoad Grawil sp. z o.o., Saferoad Kabex sp. z o.o.

Respondent: Generalna Dyrekcja Dróg Krajowych i Autostrad Oddział w Poznaniu

Interveners: Przedsiębiorstwo Budownictwa Drogowego S.A., Zakład Bezpieczeństwa Ruchu Drogowego (Zaberd) S.A.

By order of 13 July 2017, the Court of Justice (Sixth Chamber) ruled that Article 2 of Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts, ⁽¹⁾ the principle of equal treatment and the obligation of transparency must be interpreted as precluding the exclusion of an economic operator from a public tendering procedure as a result of non-compliance, on the part of that operator, with an obligation which does not follow expressly from the documents relating to that procedure.

⁽¹⁾ OJ 2004 L 134, p. 114.