

**Judgment of the Court (Seventh Chamber) of 28 February 2012 — Commission v France
(Case C-119/11)**

Failure of a Member State to fulfil obligations — Directive 2006/112/EC — Articles 99 and 110 — Value added tax — Reduced rate — Application of a reduced rate for admission to the first performances of concerts held in establishments providing refreshments during the performance

Tax provisions — Harmonisation of laws — Turnover taxes — Common system of value added tax — Member States entitled to apply a reduced rate as a transitional measure — Reintroduction of a reduced rate of 2.10% for revenue from admission to first performances of concerts given in establishments in which refreshments are served on request during the performance — Not permissible (Council Directive 2006/112, Arts 99 and 110) (see paras 30, 32, 37, operative part)

Re:

Failure of a Member State to fulfil obligations — Infringement of Articles 99 and 110 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1) — Application of a reduced rate of VAT of 2.10% for admission to the first performances of concerts given in establishments serving refreshments during the performance — Prohibition of extending the scope of an original derogation after reducing its ambit.

Operative part

The Court:

1.

Declares that, by applying, since 1 January 2007, a reduced rate of value added tax of 2.10% to revenue from admission to the first performances of concerts given in establishments in which refreshments are served on request during the performance, the French Republic has failed to fulfil its obligations under Articles 99 and 110 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax;

2.

Orders the French Republic to pay the costs.