COMMISSION DECISION

of 13 September 2006

concerning a request from the Republic of Lithuania to apply a reduced rate of VAT to the supply of district heating

(notified under document number C(2006) 4049)

(Only the Lithuanian text is authentic)

(2006/637/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the 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 [1], and in particular Article 12(3)(b) thereof,

Whereas:

(1) By letter registered at the Commission on 20 June 2006 the Republic of Lithuania informed the Commission of its intention of applying a reduced rate of VAT to the supply of district heating.

(2) Lithuania intends to apply a reduced rate (5 %) to the supply of district heating, whereas natural gas and electricity will continue to be subject to the standard rate (18 %). This differentiation of rates causes no shift from the consumption of electricity or natural gas for heating to the consumption of district heating. This is mainly due to national rules for the establishment of prices, which are quite different between natural gas, electricity and district heating, and to the fact that, from a technical-technological point of view, those products can be substitute goods only for heating purposes. Moreover, in Lithuania electricity for heating is generally used only by households which do not have any technical possibilities to use gas or to connect to networks of district heating. In this context, those households which currently use electricity will not switch to district heating because they are not connected to the district heating network. Those ones which use gas for heating will unlikely switch to district heating either since, according to the information given by the Lithuanian authorities, the price for district heating, excluding value added tax, is higher than the one for heating by gas. In any case, they could only do so if connections to district heating were provided to them.

(3) Moreover, as there are in principle no cross-border transactions with district heating, there is no risk of distortion of competition in the meaning of Article 12(3)(b) of the Sixth VAT Directive for either such heating supplied by suppliers in Lithuania to private consumers residing in other Member States or for heating supplied by suppliers from outside Lithuania to private consumers residing in this country.

(4) The planned measure is a general one applying a reduced rate of VAT to the supply of district heating under Article 12(3)(b) of the Sixth VAT Directive.

(5) Since the measure is a general one with no provision for exceptions, the risk of distortion of competition must be deemed non-existent. Since the condition laid down by Article 12(3)(b) of the Sixth Directive is thus fulfilled, Lithuania should be able to apply the measure concerned as soon as this Decision is notified,

HAS ADOPTED THIS DECISION:

Article 1

Lithuania may apply the measure notified in its letter on 20 June 2006, applying a reduced rate of VAT to the supply of district heating irrespective of the conditions of production and supply.

Article 2

This Decision is addressed to the Republic of Lithuania.

Done at Brussels, 13 September 2006.

For the Commission
László KOVÁCS
Member of the Commission

[1] OJ L 145, 13.6.1977, p. 1. Directive as last amended by Directive 2006/69/EC (OJ L 221, 12.8.2006, p. 9).