

The Role and Effects of National Administrative Practice within Sweden and its impact on the application of EU law

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1. The Concept of Administrative Practice

In Sweden the Concept of Administrative Practice covers a broad range of binding and non-binding decisions by Administrative bodies and by Administrative Courts. The latter ones form a hierarchy completely separate from the civil and criminal courts.

The Legal Infrastructure formed by laws, regulations and other acts issued on the basis of explicit legal power must be distinguished from Administrative Practice carried out within the frames of laws. Under the Constitution taxes must be decided by the Parliament as laws, based on which the Government is empowered to issue decrees in the form of regulations (*förordningar*). To a limited extent the Swedish Tax Agency (*Skatteverket*) has the right to decide on binding decrees for implementation of laws and regulations (*föreskrifter*).²

In addition to the limited number of binding decrees the Swedish Tax Agency publishes a great number of non-binding but generally applicable documents (*Allmänna råd*).³ The Tax Agency issues a great number of non-binding Guidelines, Information sheets, Handbooks, Notices etc., too.⁴ However, the borderline between general information on laws, case law, preparatory acts and actual positions taken by the Tax Agency is not always clarified in the documents.

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² Skatteverkets föreskrifter 2011.

³ Skatteverkets allmänna råd 2011.

⁴ Legal information, Rättsinformation, from the Swedish Tax Agency.

2. Interpretation by Tax Administration versus Consistent Conduct by Decentralized Tax Administration Offices

2.1. Centralized Tax Administration

As from year 2004 the Swedish Tax Agency is one Authority consisting of a Head Office and eight tax regions, each of them with a number of local offices. Previously the regions formed separate authorities. This change is of importance in many respects, not least for a more efficient implementation of a general Administrative Practice all over the country.⁵ The formation of a Large Enterprise Office, a data processing centre, a national call centre and national expert units has led to a more centralized administration. The role of Interpretation by the Tax Administration versus the conduct by the regional units, including local offices, has been strengthened. The Swedish Tax Agency is in charge of a general application of the Rule of Law in respect of Taxation, Equal Treatment of Taxpayers and Legal Certainty.⁶ Within its field the Tax Agency shall issue provisions on the enforcement of laws and other legal instruments.

As long as the central Tax Authority was a separate authority, named *Riksskatteverket*, it could appeal the decisions made by any of the regions / local offices in order to clarify the administrative practice. By the formation of a centralized authority a new function as Public Commissioner, with the right to appeal any material decisions made by the Tax Administration, was established.⁷ "The Commissioner is authorized to appeal against all tax decisions made by the Tax Agency and the Custom Agency concerning an individual person or a legal person. The pronounced purpose with this arrangement is to safeguard the fiscal interest."⁸ Even if the Public Commissioner is appointed by the Government, he belongs to the Tax Agency. I should prefer a completely independent Commissioner with the power to control that the administrative practice will

⁵ See e.g. the Government Bill, Regeringens proposition 2002/03:99, page 213; see also pages 219, 227; the result is confirmed in The Swedish Tax Agency Report 2011: Taxes in Sweden 2010. A summary of the Tax Statistical Yearbook of Sweden, Chapter 9.2.1.

⁶ See the Government Decree: Instruction for the Swedish Tax Agency, Förordning (2007:780) med instruktion för Skatteverket, Article 2.

⁷ See the Law on Public Counsel at the Swedish Tax Agency, Lag (2003:643) om allmänt ombud hos Skatteverket; see also the Government Bill, Prop. 2002/03:99, Chapter 6.5 and 6.13.

⁸ The Swedish Tax Agency Report 2011: Taxes in Sweden 2010. A summary of the Tax Statistical Yearbook of Sweden, Chapter 9.2.5.

become consistent all over the country and in respect of Taxpayers of different kinds.

2.2. Advance Rulings

2.2.1. General Conditions

Interpretation in the form of Advance Rulings reduces Consistent Conduct by Decentralized Tax Administration Offices. There are only two types of binding rulings in Sweden, one for general Advance Rulings related to income taxes as well as VAT and Excise Duties and one for application of the legislation on tax relief for foreign key personnel.

2.2.2. The Council for Tax Rulings

The decisions by the Council for Tax Rulings are binding for the Tax Administration and for Administrative Courts, if the Taxpayer concerned so requires.⁹ Decisions by the Council may be appealed by the Taxpayer and by the Tax Agency to the Supreme Administrative Court without requiring a leave to appeal. In certain cases the Public Commissioner has the right to intervene and apply for an Advance Ruling or to appeal an Advance Ruling, if it is of importance for a consequent interpretation of law. For Advance Rulings on income taxation the Taxpayer has to pay a fee, normally between SEK 1000 and SEK 20000. Advance Rulings on VAT and Excise Duties are free of charge. Nevertheless the total costs for the Taxpayer may be high, as the preparation of an application may require support of professionals with sufficient legal and tax knowledge.

In my opinion there are two risks involved for a Taxpayer asking for an Advance Ruling. Firstly, the decision may be unfavourable for the applicant and all circumstances will then be known by the Tax Administration and might be considered at a coming assessment. Secondly, independent of outcome the material content of the Advance Rulings is publicly available on the Internet and as paper copies, even if the name of the applicant and certain private or economic data are kept secret. Competitors may get access to rather precise information on new ideas and business strategies.

⁹ Article 16 Act on Advance Rulings, Lag (1998:189) om förhandsbesked i skattefrågor, see also information from the Council for Advance Rulings, Skatterättsnämnden.

2.2.3. The Taxation of Research Workers Board

Foreign key personnel, mainly executives, experts and researchers may qualify for special tax relief when working in Sweden.¹⁰ Application to the Taxation of Research Workers Board shall be made in written by the employer or employee and relate to a particular person.¹¹ The application must be filed no more than three months after the employee has commenced work in Sweden. No fees are imposed.

2.2.4. The Swedish Tax Agency

The Swedish Tax Agency as such cannot issue binding private or public rulings, even if individual officers can give reliable answers to Taxpayers. However, the view from the Tax Agency can be foreseen in many respects, but it is more related to reliance than a legal effect. The documents presenting positions by the Tax Agency available on the Internet and normally in a printed form is impressing in number and general quality. Two sources published on a current basis are of special interest, General Tax Agency Positions¹² and Tax Structures involving abuse or risk for abuse¹³. Both of them are only binding within the Tax Administration and forming a part of the Authority Governance. Such a public presentation by the Tax Agency makes its interpretations more predictable. Nevertheless, in my opinion there is a risk that the Tax Agency passes the borderline to legislation on tax law, an area strictly reserved for the Parliament. Besides, the Tax Agency publishes a great number of information letters, handbooks etc., providing valuable information to Taxpayers. However, a general remark is that there is not always a clear distinction between original documents in the form of law text, preparatory works, national and EU Case Law and the Tax Agency comments.¹⁴ Nevertheless, the impression based on references in case law is that the opinions made by the Tax Agency on Administrative Practice play a role for interpretation by the Administrative Courts.

¹⁰ Tax relief for foreign key personnel.

¹¹ Act (1999:1305) on the Taxation of Research Workers Board - Forskarskattenämnden.

¹² Skatteverkets ställningstaganden 2011.

¹³ Skatteupplägg.

¹⁴ See e.g. Pålsson, Robert, Konstitutionell skatterätt, Iustus Förlag, Uppsala 2011, pages 104-107.

2.2.5. The Region for Large Enterprises

By formation of a special nationwide Region for Large Enterprises (*Storföretagsregionen*) the intention has been to develop a deeper co-operation with the largest groups.¹⁵ Although not expressively stating a binding effect, the Swedish Tax Agency argues that there will be a preference for participating groups to get a clear statement of the position by the Tax Agency. A result of agreements with the large enterprises will be reduced importance for Consistent Conduct by Decentralized Tax Administration Offices. In my opinion the proposals so far involve a number of question-marks. An Assessment or a Court Case is related to an actual situation with details included in the documentary evidence. An agreement in written between the Tax Agency and the Taxpayer involves uncertainty about the coverage of the contract. In order to be reliable it must be very precise. And what about disclosure? It may not be possible to keep the open information provided by the Taxpayer confidential in respect of competitors asking for an equal and foreseeable treatment. Sweden has no dedicated unit for high net worth individuals.

3. Binding Effects

3.1. Annual Assessments

Assessment of the annual taxable income is decided by the Tax Agency office to which the Taxpayer belongs before the end of November the year following the fiscal year.¹⁶ Until the end of the fifth calendar year after the decision on an annual assessment the Taxpayer has the right either to ask for a renewed decision or alternatively to appeal the decision to the Administrative Court.¹⁷ For VAT the time limit for a renewed decision is approximately the same as for income taxation, calculated as the end of the 6th calendar year after the end of the applicable fiscal year.¹⁸

¹⁵ Report FÖRDJUPAD SAMVERKAN, 2011-03-31, ref. number 480-698289-10/1211.

¹⁶ Chapter 4 Article 1 - 2 the Assessment Act, *Taxeringslag* (1990:324).

¹⁷ Chapter 4 Article 7 - 9 and Article 6 section 1 and 3 the Assessment Act, *Taxeringslag* (1990:324).

¹⁸ Chapter 11 Article 2 and Chapter 21 Article 4 para. 1 the Tax Payment Act, *Skattebetalningslag* (1997:483).

Such a relatively long period for a renewed decision by the Tax Administration means in practice that fewer cases need to be appealed at Court.¹⁹ Even if the Taxpayer has appealed the decision, the Tax Agency must take a renewed decision as soon as possible before handing over the documents to the Court. Such a decision may be identical with the prime assessment or partly changed. If the decision is completely in favour of the Taxpayer, the case is finalized. Although not expressly stated, an argument for a renewed decision under general public law can be a new case law from the Supreme Administrative Court or the European Court of Justice.²⁰

The Tax Administration has the right to take a renewed decision until the end of the fifth calendar year after the assessment, if such a decision will be in favour of the Taxpayer.²¹ Renewed decisions to the Taxpayer's disadvantage must normally be concluded before the end of the year after the assessment.²²

In more important matters the decisions on assessment on income taxation shall be decided by a Board consisting of officials at the Tax Agency and members appointed by the County Parliament, where the tax office is located.²³

3.2. Court cases

The Tax Administration has no right to make a renewed decision, if there already exists a final decision by an Administrative Court.²⁴ Nevertheless, the Tax Administration is entitled to a new decision, if the Supreme Administrative Court has changed established legal practice after previous judgments by lower Administrative Courts.²⁵ But which will be the effects of new case law from the European Court of Justice when the final judgment by an Administrative Court has got legal force? The Swedish Chancellor of Justice has underlined that

¹⁹ See e.g. the Government Bill, Prop. 2002/03:99, Chapter 6.13.

²⁰ Conclusion based on Förvaltningslag (1986:223) 27 §, see also the Swedish Tax Agency: Correct Tax Administration, Rätt Handlagt 2011, title 10.6, Stockholm 2011.

²¹ Chapter 4 Article 13 the Assessment Act, *Taxeringslag* (1990:324); in respect of VAT see Chapter 21 Article 8 the Tax Payment Act, *Skattebetalningslag* (1997:483).

²² Chapter 4 Article 14 the Assessment Act, *Taxeringslag* (1990:324); in respect of VAT see Chapter 21 Article 9 the Tax Payment Act, *Skattebetalningslag* (1997:483).

²³ Chapter 2 Article 4-6 and Chapter 7 Article 5 the Assessment Act, *Taxeringslag* (1990:324).

²⁴ Chapter 4 Article 8 the Assessment Act, *Taxeringslag* (1990:324); in respect of VAT see Chapter 21 Article 3 para. 1 the Tax Payment Act, *Skattebetalningslag* (1997:483).

²⁵ Chapter 4 Article 12 the Assessment Act, *Taxeringslag* (1990:324); in respect of VAT see Chapter 21 Article 3 para. 3 the Tax Payment Act, *Skattebetalningslag* (1997:483).

Community law does not include such an obligation.²⁶ The clear reason is that the European Court of Justice interprets Community Law but leaves to the national courts to interpret national law. As Administrative Authorities and Courts must consider EU Law, a risk with the position taken by the Chancellor is that new Community case law not will be considered in the same way as the pure national one. If the Tax Administration considers that the decision in a certain case is in clear conflict with new case law from the European Court of Justice, it should be sufficient for a renewed decision. There should be no or limited risk for mistakes, as there will always be a public remedy available in such cases, as the Public Commissioner has the right to appeal decisions made by the Tax Administration.²⁷ If he finds a clear judgment necessary, he may primarily bring the case to the Administrative Court of First Instance. Such a judgment may be appealed up to the Supreme Administrative Court, if a leave to appeal will be admitted.

3.3. Established Case Law

Even if Established Case Law is not binding for courts and administrative bodies, it is generally accepted.²⁸ The Supreme Administrative Court has underlined that the reliance on established case law has a long tradition, which should be applied by administrative practice.²⁹ Not least the Principle of Legal Expectations is of importance. The consequences of legal acts and legal transactions must be possible to foresee.

4. Does Practice as a Result of Interpretation of Law limit Practice as a Consistent Conduct?

The Swedish Tax Agency has during a long period of time developed tools in the form of publicly available guidelines, handbooks etc. for the governance of regions and local offices. The formation of one single Tax Authority as from 2004 means a still stronger central governance not least by formation of a number of

²⁶ Chancellor of Justice Decision.

²⁷ See the Law on Public Commissioner at the Swedish Tax Agency, Lag (2003:643) om allmänt ombud hos Skatteverket; see also the Government Bill, Prop. 2002/03:99, Chapter 6.13.

²⁸ The Swedish Tax Agency: Correct Tax Administration, Rätt Handlagt 2011, Chapter 2.7, Stockholm 2011.

²⁹ See primarily the Supreme Administrative Court's case from 1980, RÅ 1:24.

nationwide expert and other units. In my opinion the central units with strong interpretative resources and established IT-support mean a clear reduction of practice as a consistent conduct. Staff members belonging to a central expert unit may in principle be located anywhere. The consequences for the local practice as consistent conduct by central experts located to local or regional offices are in my opinion a improved influences of the results of central interpretation of law, not the opposite.

5. Constitutional Principles

5.1. Taxes must be based on law

Public power as decisions on taxation and other relations between individuals and the public institutions relating to the obligations of individuals is executed under the law.³⁰ The Rule of Law implies a hierarchical structure. Provisions are adopted by the Parliament (*Riksdagen*) by means of an Act of law and by the Government by means of an Ordinance.³¹ The Parliament or the Government may also authorise other State authorities to adopt provisions. However, such provisions may not regulate taxes.³² Authorisation to adopt provisions shall always be laid down in an Act of law or an Ordinance. The Government may adopt provisions relating to the implementation of laws and provisions not requiring adoption by the Parliament under fundamental law.³³ However, a Minister has no power to direct an administrative body but is free to express his or her opinion.³⁴

The Principle of Legality requires not only a legal structure but also strict norms about interpretation of tax law, always starting with the wording of the provision.³⁵

³⁰ Chapter 1 Article 1 Instrument of Government, Regeringsformen Chapter 1, and Chapter 8 Article 2 para. 2.3, Regeringsformen Chapter 8.

³¹ Chapter 8 Article 1 para. 1 Instrument of Government, Regeringsformen Chapter 8.

³² Chapter 8 Article 3 para. 1.2 and in respect of municipal taxes Chapter 8 Article 2 para. 1.3 Instrument of Government, Regeringsformen Chapter 8.

³³ Chapter 8 Article 7 para. 1 Instrument of Government, Regeringsformen Chapter 8.

³⁴ See e.g. Bull, Thomas & Sterzel, Fredrik, *Regeringsformen – en kommentar*, SNS Förlag, Stockholm 2010, pages 281-282.

³⁵ See e.g. Pålsson, Robert, *Konstitutionell skatterätt*, Iustus Förlag, Uppsala 2011, page 86.

5.2. Principle of Equality

Administrative Bodies must observe objectivity and impartiality and pay regard to the Principle of Equality.³⁶ Like established case law from the European Court of Justice comparable situations must not be differently treated, unless such a treatment is objectively justified. In an individual case it does not only mean that a taxable person must not be less favourably treated than other ones but also that he must not be more favourably treated than a strict interpretation of law and the applicability to anyone would give as a result.³⁷

5.3. Fundamental rights and freedoms

Fundamental rights and freedoms are guaranteed in the Constitution³⁸, under EU law³⁹ and under the European Convention for the Protection of Human Rights and Fundamental Freedoms⁴⁰.

5.4. No Retroactivity

No taxes or charges due to the State may be imposed except inasmuch as follows from provisions being in force when the circumstance occasioning the liability for the tax or charge arose.⁴¹ These restrictions are equivalent with the principles applicable to penal sanctions. Also retroactive applications of surtaxes or delay charges are prohibited.⁴²

³⁶ Chapter 1 Article 9 Instrument of Government, Regeringsformen Chapter 1.

³⁷ In respect of not treating anyone more favourably see e.g. Decision by the Parliamentary Ombudsmen 26.2.2010, ref. number 5363-2008, Parliamentary Ombudsmen - JO; see also Bull, Thomas & Sterzel, Fredrik, *Regeringsformen – en kommentar*, SNS Förlag, Stockholm 2010, page 59.

³⁸ Chapter 2 Article 1 para. 1 Instrument of Government, Regeringsformen Chapter 2.

³⁹ See primarily Chapter 10 Article 6 para. 1 Instrument of Government, Regeringsformen Chapter 10.

⁴⁰ See the reference to the Convention in Chapter 2 Article 19 Instrument of Government, Regeringsformen Chapter 2.

⁴¹ Chapter 2 Article 10 para. 2 the Instrument of Government, Regeringsformen Chapter 2; see also e.g. Bull, Thomas & Sterzel, Fredrik, *Regeringsformen – en kommentar*, SNS Förlag, Stockholm 2010, pages 84-85.

⁴² See e.g. Bull, Thomas & Sterzel, Fredrik, *Regeringsformen – en kommentar*, SNS Förlag, Stockholm 2010, pages 83 and 200-201.

5.4.1. Principle of Proportionality

Limitation of fundamental rights must never go beyond what is necessary with regard to its purpose.⁴³ This Principle of Proportionality has a clear base in the Swedish Constitution. Nevertheless, many authors seem to believe that it was more or less introduced by the implementation of EU Law. The Principle is not only a condition for limitation of fundamental rights but also applicable to individual practice and case law in tax matters.

5.5. Independent Administration and Administration of Justice

Neither a public authority, including the Parliament, nor "a decision-making body of any local authority, may determine how an administrative authority shall decide in a particular case relating to the exercise of public authority vis-à-vis an individual or a local authority, or relating to the application of law".⁴⁴ Acts of law and other provisions must have a general application and not be directed towards an individual or a legal person.⁴⁵ However, the number of persons concerned might be very limited. As a consequence of the rule of law authorisation for the Government or an Administrative body to adopt provisions shall always be laid down in an act of law or an ordinance. Based on such provisions decisions may be taken in individual cases.

The independence of the courts has been underlined. Neither the Parliament "nor a public authority, may determine how a court of law shall adjudicate an individual case or otherwise apply a rule of law in a particular case".⁴⁶

6. Effects of Documents issued by the Tax Administration not being Compliant with Previously Established Administrative Practice

Basically, Taxpayers will only be required to apply the new interpretation from a current or future date. They are generally not required to correct past errors as a consequence of new interpretation of the law issued by the Tax Administration.

⁴³ Chapter 2 Article 21 Instrument of Government, Regeringsformen Chapter 2; see also e.g. Pålsson, Robert, *Konstitutionell skatterätt*, Iustus Förlag, Uppsala 2011, pages 71-72.

⁴⁴ Chapter 12 Article 2 Instrument of Government, Regeringsformen Chapter 12.

⁴⁵ See e.g. Bull, Thomas & Sterzel, Fredrik, *Regeringsformen – en kommentar*, SNS Förlag, Stockholm 2010, pages 193-195.

⁴⁶ Chapter 11 Article 3 Instrument of Government, Regeringsformen Chapter 11.

Rarely, the Swedish Tax Agency postpones the date for application of new practises. In the Light of EU Case Law the VAT legislation under the 6th VAT Directive regarding the supply of conference facilities including e.g. meals, audio visual equipment, staff support etc. seemed clear to me, but the General Tax Agency Positions, handbooks etc. from the Swedish Tax Agency allowed wider tax exemptions than should have been admitted. After a judgment by the Supreme Administrative Court 27 March 2007 the Tax Agency presented a new General Tax Agency Position 28 September the same year stating that decisions initiated by the Tax Administration should normally not cover periods before 1 January 2008.⁴⁷

7. Compliance with EU Law

7.1. Application in Sweden

If a court finds that a provision conflicts with a rule of fundamental law or other superior statute, e.g. EU Law, it shall not be applied.⁴⁸ The requirement that administrative practice must comply with EU Law is generally accepted, although not consequently applied. It is a duty for the Director General of the Swedish Tax Agency as for other persons in charge of an Administrative body to secure that EU Law will be respected.⁴⁹

7.2. Courts and Judges

It seems to me that the Administrative Courts nowadays constantly apply EU Law, and it is rare not to find arguments in the judgments on the applicability of EU Law. The same practise applies to decisions by the Council for Tax Rulings. Individual judges at courts as well as members of the Council for Tax Rulings have their right and duty to express their opinion, if it is deviating from the majority decision. However, my impression is that many of the mentioned decision makers are reluctant to oppose strong opinions from the Tax Agency.

⁴⁷ The General Tax Agency Position: Tillhandahållande av konferensarrangemang, 2007-09-28, Dnr 131542246-07/111.

⁴⁸ Chapter 11 Article 14 Instrument of Government, Regeringsformen Chapter 11.

⁴⁹ Article 3 the Ordinance on State Authorities, Myndighetsförordning (2007:515).

7.3. Protection of Taxpayers

7.3.1 Remedies in case of breach of EU Law

There are in principle two kinds of remedies in case of breach of EU Law. Primarily, the Taxpayer may appeal the wrong decision as far as admitted, normally up to the Supreme Administrative Court, although a leave to appeal may be required. Secondly, the Taxpayer may alternatively apply for compensation in the form of damages from the State, even if the Taxpayer has not primarily appealed the decision by the Tax Administration or the Court. Nevertheless, as long as the decision has not got legal force the right to initiate court proceedings remains, if the application has been rejected by the Chancellor of Justice.⁵⁰

7.3.2. Damages by the State

The basic condition to be entitled to damages is that a public authority has caused economic damage when exercising legal power.⁵¹ The provision has a wide application and is also covering national public infringements of EU Law. Even if the national decision has got legal force, the Taxpayer may be entitled to damages from the State based on EU Law.⁵² The Taxpayer has to apply to the Office of the Chancellor of Justice.⁵³ In respect of taxation the Taxpayer normally submits a complaint in written, thus drawing the Chancellor's attention to malpractice or abuse of power. It falls within the competence of the Chancellor to make settlements on behalf of the State in actions for damages. Besides, the Chancellor can as supervisor of the State Administration take initiatives on his/her own motion.

⁵⁰ See Information on the Office of the Chancellor of Justice; see also the Swedish Tax Agency: Correct Tax Administration, Rätt Handlagt 2011, Chapter 12.8, Stockholm 2011.

⁵¹ Chapter 3 Article 2.1 Law on Damages, Skadeståndslag 1972:207; see also The Swedish Tax Agency: Correct Tax Administration, Rätt Handlagt 2011, Chapter 12.8, Stockholm 2011.

⁵² See e.g. Chancellor of Justice Decision 2009-04-06, ref. number 2409-08-40.

⁵³ See the Regulation on the treatment of applications for compensation from the State, Förordning (1995:1301) om handläggning av skadeståndsanspråk mot staten.

7.3.3. Damages from the State in a Swedish case conflicting the 6th VAT Directive (77/288/EC)⁵⁴

A Taxpayer had been denied his right to deduct input VAT under Article 17 of the 6th VAT Directive. The interpretation of the provision of importance for the Swedish case had been clarified by the European Court of Justice in the case C-016/00 *Cibo*⁵⁵ after that the Administrative Court of Appeal had decided on the case but before the Supreme Administrative Court had denied the Taxpayer the leave to appeal. As the judgment by the Administrative Court of Appeal was in conflict with Community Law, the Supreme Administrative Court should have permitted a review. That should have been the conclusion also if the decision by the Supreme Administrative Court had been made before the judgment in the *Cibo*-case, as a court of a Member State against whose decisions there is no judicial remedy under national law should bring matters on interpretation of institutional acts before the European Court of Justice.⁵⁶ The Chancellor of Justice decided to admit damages to the Taxpayer with an amount corresponding to the lost right of deduction plus interest under national law.

7.3.4. Conclusions regarding the right to damages from the State in connection with infringements of EU Law

The conditions for application are the same, independently of the background being related to national or EU Law. The general law on damages applies. If an Administrative Authority or a Court has infringed Community Law, the infringement being sufficiently serious, and having a documented connection to the damages, there will be a right to damages from the State. The research and the framework carried out by the Chancellor of Justice seem me as parallel to the ones applied in pure national cases.⁵⁷ The arguments in a case related to incorrect deregistration of a taxable person from the national VAT register are

⁵⁴ See Chancellor of Justice Decision 2009-04-06, ref. number 2409-08-40.

⁵⁵ Case C-016/00 *Cibo Participations* [*Cibo Participations SA vs Directeur régional des impôts du Nord-Pas-de-Calais*], REG 2001 s. I-1361, para. 33-35.

⁵⁶ Article 234 TEC.

⁵⁷ I have for this purpose analysed the following cases: 2010-03-30, ref. number 21539-10-40 ; 2009-04-06, ref. number 2409-08-40; 2008-04-09, ref. number 7665-06-40; 2006-10-30, ref. number 1425-05-42; 2006-06-28, ref. number 1814-05-44; 2005-10-04, ref. number 2419-30-44. All of them are publicly available on the Internet, see INFORMATION ON THE OFFICE OF THE CHANCELLOR OF JUSTICE.

interesting from an EU-perspective.⁵⁸ The Chancellor considered it serious that the person for almost one year was not identifiable in the European VAT Information Exchange System⁵⁹ causing serious difficulties to get supplies from other Member States. The Taxpayer got damages with SEK 200000 from the State.

⁵⁸ See the Decision by the Chancellor of Justice case 2006-10-30, ref. number 1425-05-42.

⁵⁹ VIES VAT number validation.