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UNIVERSITÀ DI PISA

Winter School “*Reinforcing EU responsible global leadership: promoting EU values for a rules-based multilateral world*”

Jean Monnet Chair “*ProSoEU Law Abroad*”, University of Pisa

Thursday 8 February 2024

Moot Court

GAMMA S.P.A. v. VIETNAM

1. In the last few years, Vietnam has undertaken a virtuous energy transition process, in the framework of which it started the substitution of fossil fuels with renewable sources such as hydroelectric, solar and wind power, playing a pioneering role in Southeast Asia.
2. In order to promote investments in the field of renewable energies, Vietnam adopts a legislative act that grants to “Vietnamese and foreign investors” operating in such sector the reimbursement of the value added tax (VAT) paid on purchases of goods and services required for their activities in Vietnam.
3. Attracted by the favourable conditions accorded by Vietnam, such as the ones provided by the abovementioned legislative act, the Italian company Gamma S.p.A., operating in the hydroelectric energy sector, decides to plan important investments in Vietnam.
4. Therefore, Gamma S.p.A. enters into an agreement with the Vietnamese government. Such agreements, indeed, does not repeat the obligation of the government to reimburse the value added tax paid by the company.
5. Immediately after, Gamma S.p.A. starts its investment, and punctually receives the reimbursements granted by law.
6. Some years later, Vietnam notes that on its territory there is now a large number of foreign investors in the renewable energy sector and it deems some of the previously granted conditions disadvantageous for its economy. Therefore, it decides to amend the legislative act concerning the reimbursement of the value added tax: in particular, it repeals the part of the act granting such reimbursement to “foreign investors” in the renewable energy sector.
7. As a consequence of such amendment, Vietnam ceases to reimburse the value added tax paid by Gamma S.p.A., that had decided to invest in Vietnam also by reason of such rule and that now could not disinvest without suffering significant economic losses.
8. Gamma S.p.A., deeming the government’s conduct unlawful, consults a lawyer in order to understand which instruments can be activated and how the measures adopted by the Vietnamese government can be challenged.
9. At the same time, once discovered that Gamma S.p.A. intends to take action, the Vietnamese government consults a lawyer as well, in order to identify in advance the mechanisms that can be activated by the company, and to understand how to defend itself asserting its reasons.



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INSTRUCTIONS

The participants to the Winter School “*Reinforcing EU responsible global leadership: promoting EU values for a rules-based multilateral world*” Moot Court are now divided in two teams: one shall support the reasons of Gamma S.p.A., while the other shall support the ones of the Vietnamese government.

The case is discussed in front of a panel. The members of the teams are called to intervene. Subsequently, the panel adopts its decision.