Parties to the main proceedings

Applicant: Société d'investissement pour l'agriculture tropicale SA (SIAT)

Defendant: État belge

Re:

Reference for a preliminary ruling — Cour de cassation — Interpretation of Article 49 EC — Tax legislation allowing the deduction of business expenses incurred by a resident taxpayer, but not allowing the deduction of such expenses if the taxpayer resides or is established in another Member State in which that taxpayer is not subject to any tax on income or is subject there to a tax regime which is appreciably more advantageous — Restriction on the freedom to provide services

Operative part of the judgment

Article 49 EC must be interpreted as precluding legislation of a Member State, such as the legislation at issue in the main proceedings, under which payments made by a resident taxpayer to a non-resident company for supplies or services are not to be regarded as deductible business expenses where the non-resident company is not subject, in the Member State of establishment, to tax on income or is subject, as regards the relevant income, to a tax regime which is appreciably more advantageous than the applicable regime in the former Member State, unless the taxpayer proves that such payments relate to genuine and proper transactions and do not exceed the normal limits, whereas, under the general rule, such payments are to be regarded as deductible business expenses if they are necessary for acquiring or retaining taxable income and if the taxpayer demonstrates the authenticity and amount of those expenses.

(1) OJ C 246, 11.9.2010.

Judgment of the Court (Third Chamber) of 12 July 2012 (reference for a preliminary ruling from the Legfelsőbb Bíróság — Hungary) — Application to register a company made by VALE Építési kft

(Case C-378/10) (1)

(Articles 49 TFEU and 54 TFEU — Freedom of establishment — Principles of equivalence and effectiveness — Cross-border conversion — Refusal to add to register)

(2012/C 287/04)

Language of the case: Hungarian

Referring court

Legfelsőbb Bíróság

Parties to the main proceedings

VALE Építési kft

Re:

Reference for a preliminary ruling — Magyar Köztársaság Legfelsőbb Bíróság — Interpretation of Articles 267 EC and 48 EC — Movement of a company governed by the law of a Member State to another Member State, thereby changing the national law applicable — National legislation which refuses to record in the companies register the predecessor in law of a company established in another Member State

Operative part of the judgment

1. *Articles 49 TFEU and 54 TFEU are to be interpreted as precluding national legislation which enables companies established under national law to convert, but does not allow, in a general manner, companies governed by the law of another Member State to convert to companies governed by national law by incorporating such a company.*

2. *Articles 49 TFEU and 54 TFEU are to be interpreted, in the context of cross border company conversions, as meaning that the host Member State is entitled to determine the national law applicable to such operations and thus to apply the provisions of its national law on the conversion of national companies governing the incorporation and functioning of companies, such as the requirements relating to the drawing up of lists of assets and liabilities and property inventories. However, the principles of equivalence and effectiveness, respectively, preclude the host Member State from*

   — *refusing, in relation to cross border conversions, to record the company which has applied to convert as the 'predecessor in law', if such a record is made of the predecessor company in the commercial register for domestic conversions, and*

   — *refusing to take due account, when examining a company's application for registration, of documents obtained from the authorities of the Member State of origin.*

(1) OJ C 317, 20.11.2010.

Judgment of the Court (First Chamber) of 5 July 2012 (reference for a preliminary ruling from the Bundesgerichtshof — Germany) — Josef Geistbeck, Thomas Geistbeck v Saatgut-Treuhandverwaltungs GmbH

(Case C-509/10) (1)

(Intellectual and industrial property — Community plant variety rights — Regulation (EC) No 2100/94 — 'Farmer's privilege' — Concept of 'reasonable compensation' — Compensation for damage suffered — Infringement)

(2012/C 287/05)

Language of the case: German

Referring court

Bundesgerichtshof