

**Judgment of the Court (Third Chamber) of 14 September 2006 (reference for a preliminary ruling from the Bundesfinanzhof — Germany) — Centro di Musicologia Walter Stauffer v Finanzamt München für Körperschaften**

(Case C-386/04) <sup>(1)</sup>

*(Free movement of capital — Corporation tax — Exemption of rental income — Residence qualification — Charitable foundation governed by private law)*

(2006/C 281/13)

Language of the case: German

#### Referring court

Bundesfinanzhof

#### Parties to the main proceedings

*Applicant:* Centro di Musicologia Walter Stauffer

*Defendant:* Finanzamt München für Körperschaften

#### Re:

Reference for a preliminary ruling — Bundesfinanzhof — Interpretation of Article 52 of the EC Treaty (now, after amendment, Article 43 EC), Article 58 of the EC Treaty (now Article 48 EC), Article 59 of the EC Treaty (now, after amendment, Article 49 EC) and Article 73b of the EC Treaty (now Article 56 EC) — National corporation tax legislation — Exemption for charitable foundations established under private law receiving income in the territory from the letting of property subject to the condition that those foundations are resident.

#### Operative part of the judgment

Article 73b of the EC Treaty, in conjunction with Article 73d of the EC Treaty, must be interpreted as precluding a Member State which exempts from corporation tax rental income received in its territory by charitable foundations which, in principle, have unlimited tax liability if they are established in that Member State, from refusing to grant the same exemption in respect of similar income to a charitable foundation established under private law solely on the ground that, as it is established in another Member State, that foundation has only limited tax liability in its territory.

<sup>(1)</sup> OJ C 262, 23.10.2004.

**Judgment of the Court (Grand Chamber) of 19 September 2006 (references for a preliminary ruling from the Bundesverwaltungsgericht, Germany) — i-21 Germany GmbH and Arcor AG & Co. KG v Bundesrepublik Deutschland**

(Joined Cases C-392/04 and C-422/04) <sup>(1)</sup>

*(Telecommunication services — Directive 97/13/EC — Article 11(1) — Fees and charges for individual licences — Article 10 EC — Primacy of Community law — Legal certainty — Final administrative decision)*

(2006/C 281/14)

Language of the cases: German

#### Referring court

Bundesverwaltungsgericht (Germany)

#### Parties to the main proceedings

*Appellants:* i-21 Germany GmbH (C-392/04), Arcor AG & Co. KG (C-422/04)

*Respondent:* Bundesrepublik Deutschland

#### Re:

Reference for a preliminary ruling — Bundesverwaltungsgericht — Interpretation of Article 10 EC and Article 11(1) of Directive 97/13/EC of the European Parliament and of the Council of 10 April 1997 on a common framework for general authorisations and individual licences in the field of telecommunications services (OJ 1997 L 117, p. 5) — Fees applicable to the undertakings which have individual licences, calculated to anticipate the national regulatory authority's general administrative costs over a period of 30 years

#### Operative part of the judgment

1. Article 11(1) of Directive 97/13/EC of the European Parliament and of the Council of 10 April 1997 on a common framework for general authorisations and individual licences in the field of telecommunications services precludes the application of a fee for individual licences calculated by taking into account the regulatory body's general administrative costs linked to implementing those licences over a period of 30 years.