2. In the light of the rules contained in Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, is Article 2(2)(b) of that directive to be construed as prohibiting Member States from indirectly discriminating against individuals on grounds of their ethnic origin in the case where national legal rules provide that the first names and surnames of individuals of different origin or nationality must be written, in documents indicating civil status, using Roman letters and not employing diacritical marks, ligatures or other modifications to the letters of the Roman alphabet which are used in a variety of languages?

3. In the light of Article 18(1) of the Treaty establishing the European Community, which provides that every citizen of the Union has the right to move and reside freely within the territory of the Member States, and in the light of the first paragraph of Article 12 of that Treaty, which prohibits discrimination on grounds of nationality, should those provisions be construed as prohibiting Member States from providing in national legal rules that personal first names and surnames may be written in documents indicating civil status using only the letters of the national language?

4. In the light of Article 18(1) of the Treaty establishing the European Community, which provides that every citizen of the Union has the right to move and reside freely within the territory of the Member States, and in the light of the first paragraph of Article 12 of that Treaty, which prohibits discrimination on grounds of nationality, should those provisions be construed as prohibiting Member States from providing in national legal rules that the first names and surnames of individuals of different origin or nationality must be written, in documents indicating civil status, using Roman letters and not employing diacritical marks, ligatures or other modifications to the letters of the Roman alphabet which are used in a variety of languages?

(1) OJ L 180, 19.7.2000, p. 22.

Reference for a preliminary ruling from the Naczelny Sąd Administracyjny (Republic of Poland), lodged on 13 October 2009 — Oasis East sp. z o.o. v Minister Finansów

(Case C-395/09)

(2009/C 312/34)

Language of the case: Polish

Referring court

Naczelny Sąd Administracyjny

Parties to the main proceedings

Appellant: Oasis East sp. z o.o.

Respondent: Minister Finansów

Question referred

Does Community law (in particular, Article 17(6) of Sixth Council Directive 77/388/EEC [1] 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, now Article 176 of Council Directive 2006/112/EC [2] of 28 November 2006 on the common system of value added tax) entitle a Member State to apply national provisions which exclude the right of a taxable person to reduce the amount of tax due, or to receive a refund of the difference, in the case of the purchase of imported services in connection with which payment of the amount due is made directly or indirectly to a person having its place of residence, registered office or central management in one of the territories or countries referred to in national law as so-called 'tax havens', regard being had to the fact that such exclusion was applied in the Member State prior to its accession to the Community?

(1) OJ 1977 L 145, p. 1.
(2) OJ 2006 L 347, p. 1.

Reference for a preliminary ruling from the Tribunale ordinario di Bari (Italy) lodged on 12 October 2009 — Interedil Srl, in liquidation v Fallimento Interedil Srl, Banca Intesa Gestione Crediti Spa

(Case C-396/09)

(2009/C 312/35)

Language of the case: Italian

Referring court

Tribunale ordinario di Bari

Parties to the main proceedings

Applicant: Interedil Srl, in liquidation

Defendant: Fallimento Interedil Srl, Banca Intesa Gestione Crediti Spa

Question(s) referred

1. Is the concept of 'the centre of a debtor's main interests' in Article 3(1) of Regulation No 1346/2000 [1] to be interpreted in accordance with Community law or national law, and, if the former, how is that concept to be defined and what are the decisive factors or considerations for the purpose of identifying the 'centre of main interests'?

2. Can the presumption laid down in Article 3(1) of Regulation No 1346/2000, according to which "[i]n the case of a company. the place of the registered office shall be presumed to be the centre of its main interests in the absence of proof to the contrary', be rebutted if it is established that the company carries on genuine business activity in a State other than that in which it has its registered office, or is it necessary, in order for the presumption to be deemed rebutted, to establish that the company has not carried on any business activity in the State in which it has its registered office?

3. If a company has, in a Member State other than that in which it has its registered office, immovable property, a lease agreement concluded by the debtor company with another company in respect of two hotel complexes, and a contract with a banking institution, are these sufficient factors or considerations to rebut the presumption laid down in Article 3(1) of Regulation No 1346/2000 that the place of the company's 'registered office' is the centre of its main interests and are such circumstances sufficient for the company to be regarded as having an 'establishment' within the meaning of Article 3(2) of Regulation No 1346/2000?

4. If the ruling on jurisdiction by the Corte di Cassazione in the aforementioned Order No 10606/2005 is based on an interpretation of Article 3 of Regulation No 1346/2000 which is at variance with that of the Court of Justice of the European Communities, is the application of that provision of Community law, as interpreted by the Court of Justice, precluded by Article 382 of the Code of Civil Procedure, according to which rulings on jurisdiction by the Corte di Cassazione are final and binding?'

(1) OJ 2000 L 160, p. 1

Reference for a preliminary ruling from the Bundesfinanzhof (Germany) lodged on 14 October 2009 — Scheuten Solar Technology GmbH v Finanzamt Gelsenkirchen-Süd

(Case C-397/09)

(2009/C 312/36)

Language of the case: German

Referring court

Bundesfinanzhof

Parties to the main proceedings

Applicant: Scheuten Solar Technology GmbH

Defendant: Finanzamt Gelsenkirchen-Süd

Questions referred

1. Does Article 1(1) of Council Directive 2003/49/EC of 3 June 2003 on a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States (1) — the EU interest and royalties directive — preclude a provision under which loan interest paid by a company of one Member State to an associated company of another Member State is added to the basis of assessment to trade tax for the first company?

2. If so, is Article 1(10) of Directive 2003/49 to be interpreted as meaning that a Member State has the option of not applying the directive even where the conditions set out in Article 3(b) in relation to the existence of an associated company have not yet been maintained for an uninterrupted period of at least two years at the time of payment of the interest?

   Can the Member States rely, in respect of the paying company, directly on Article 1(10) of the directive in those circumstances?

(1) OJ 2003 L 157, p. 49.

Reference for a preliminary ruling from the Østre Landsret (Denmark) lodged on 14 October 2009 — Lady & Kid A/S, Direct Nyt ApS, A/S Harald Nyborg Isenkram- og Sportsforretning and KID-Holding A/S v Skatteministeriet

(Case C-398/09)

(2009/C 312/37)

Language of the case: Danish

Referring court

Østre Landsret

Parties to the main proceedings

Applicants: Lady & Kid A/S, Direct Nyt ApS, A/S Harald Nyborg Isenkram- og Sportsforretning and KID-Holding A/S

Defendant: Skatteministeriet