

Re:

Reference for a preliminary ruling — Supremo Tribunal Administrativo — Compatibility with Articles 12 EC, 43 EC, 56 EC, 58(3) EC (now Articles 18, 49, 63 and 65(3) TFEU) and with Article 5(1) of Council Directive 90/435/EEC of 23 July 1990 on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States (OJ 1990 L 225, p. 6) of national fiscal legislation on the taxation of dividends distributed by a resident company to a non-resident company which has a holding in the company paying the dividends of less than 25 % — Taxation by deduction at source at the rate of 15 % provided for by the double taxation agreement concluded between the two Member States at issue — Exemption of dividends paid to resident companies

Operative part of the order

Articles 56 EC and 58 EC must be interpreted as precluding a tax scheme under a double-taxation agreement concluded between two Member States, which provides for withholding tax of 15 % on the dividends distributed by a company established in one Member State to a company established in another Member State, where the national legislation of the first Member State exempts from that tax dividends paid to a resident company. It would be otherwise only if the tax withheld at source could be set off against the tax payable in the second Member State in the full amount of the difference in treatment. It is for the national court to determine whether such a neutralisation of the difference in treatment has been effected by the application of all the provisions of the convention for the avoidance of double taxation and prevention of the avoidance or evasion of taxes with respect to taxes on income, concluded on 26 October 1993 between the Portuguese republic and the Kingdom of Spain.

⁽¹⁾ OJ C 195, 17.7.2010.

Order of the Court (Fifth Chamber) of 6 December 2010 (reference for a preliminary ruling from the Tribunalul Dolj — Romania) — Adrian Băilă v Administrația Finanțelor Publice a Municipiului Craiova, Administrația Fondului pentru Mediu

(Case C-377/10) ⁽¹⁾

(Reference for a preliminary ruling — Lack of relationship with the reality or the subject-matter of the case in the main proceedings — Inadmissibility)

(2011/C 63/31)

Language of the case: Romanian

Referring court

Tribunalul Dolj

Parties to the main proceedings

Applicant: Adrian Băilă

Defendant: Administrația Finanțelor Publice a Municipiului Craiova, Administrația Fondului pentru Mediu

Re:

Reference for a preliminary ruling — Tribunal Dolj — Registration of second-hand vehicles previously registered in another Member State — Environmental tax on vehicles on their first registration in a given Member State — Compatibility of the national rules with Article 110 TFEU — Temporary exemption for vehicles with certain characteristics

Operative part of the order

The reference for a preliminary ruling made by the Tribunalul Dolj by decision of 9 June 2010 is manifestly inadmissible.

⁽¹⁾ OJ C 274, 9.10.2010.

Order of the Court (Fifth Chamber) of 7 December 2010 (reference for a preliminary ruling from the Curtea de Apel Bacău — Romania) — SC DRA SPEED SRL v Direcția Generală a Finanțelor Publice Bacău, Administrația Finanțelor Publice Bacău

(Case C-439/10) ⁽¹⁾

(Reference for a preliminary ruling — Failure to provide a factual description — Inadmissibility)

(2011/C 63/32)

Language of the case: Romanian

Referring court

Curtea de Apel Bacău

Parties to the main proceedings

Applicant: SC DRA SPEED SRL

Defendant: Direcția Generală a Finanțelor Publice Bacău, Administrația Finanțelor Publice Bacău

Re:

Reference for a preliminary ruling — Curtea de Apel Secția Bacău Secția Comercială, Contencios Administrativ și Fiscal — Registration of second-hand vehicles previously registered in another Member State — Environmental tax on vehicles on their first registration in a Member State — Compatibility of the national rules with Article 110 TFEU — Discrimination in relation to second-hand vehicles already registered in the territory of that Member State and not subject to that tax on a subsequent sale or new registration

Operative part of the order

The reference for a preliminary ruling made by the Curtea de Apel Bacău by decision of 1 September 2010 is manifestly inadmissible.

⁽¹⁾ OJ C 328, 4.12.2010.