With regard to the deduction of operating costs, the Commission would like to point out that the Member States must also comply with the prohibitions on discrimination enshrined in the Treaty with regard to withholding taxes. In that context, the source State may not rely on unilateral rules in another Member State in order to avoid complying with its own obligations. Germany has not submitted that agreement has been reached with the other Member States that they deduct operating costs instead of Germany. Even if there were such an agreement, it would often not achieve the objective, for example where the revenue concerned is tax-exempt in the other State or the taxpayer does not make any overall profit. In addition, where the imputation method is used, the deduction of operating costs in the State of residence cannot replace that in the source State. In that case both States namely tax, in principle, the same income. Accordingly, taxation of net revenue rather than gross revenue is guaranteed only where both States apply their provisions on the deduction of operating costs. Deduction by the source State does not therefore lead to a double burden but merely establishes equal treatment vis-à-vis purely internal situations.

Reference for a preliminary ruling from the Upravno sodišče (Slovenia) lodged on 21 December 2010 — Pelati d.o.o. v Republic of Slovenia

(Case C-603/10)

(2011/C 80/22)

Language of the case: Slovenian

Referring court

Upravno sodišče

Parties to the main proceedings

Applicant: Pelati d.o.o.

Defendant: Republic of Slovenia

Question referred

Must Article 11 of Council Directive 90/434/EEC ([1]) be interpreted as precluding a provision of domestic law in accordance with which the Republic of Slovenia, as a Member State, makes tax relief for a commercial company wishing to effect a division (splitting off of part of the company and formation of a new company) subject to the presentation within time-limits of a request for the issuing of authorisation of the grant of tax advantages, consequent upon the division if the conditions laid down have been satisfied, or in accordance with which the person liable to pay the tax automatically loses, because the time-limit has been passed, the tax advantages provided for under domestic law?

([1]) Council Directive 90/434/EEC of 23 July 1990 on the common system of taxation applicable to mergers, divisions, transfers of assets and exchanges of shares concerning companies of different Member States, OJ 1990 L 225, p. 1.

Reference for a preliminary ruling from the Commissione tributaria provinciale di Parma (Italy) lodged on 30 December 2010 — Danilo Debiasi v Agenzia delle Entrate Ufficio di Parma

(Case C-613/10)

(2011/C 80/23)

Language of the case: Italian

Referring court

Commissione Tributaria Provinciale di Parma

Parties to the main proceedings

Applicant: Danilo Debiasi

Defendant: Agenzia delle Entrate Ufficio di Parma

Question referred

Is there a conflict between, on the one hand, Articles 19(5) and 19a of Presidential Decree No 633/72 and, on the other hand, Article 17(2)(a) of Directive 77/388/EEC, and the documents COM(2001) 260 final of 23.05.2001 and COM(2000) 348 final of 07.06.2000, and is there also unequal treatment of the VAT rules at Community level and consequently a need of harmonisation with the other European systems, given that various Member States apply, subject to certain conditions, a system of taxation at a lower rate?

Reference for a preliminary ruling from the Tribunal de première instance, Namur (Belgium) lodged on 22 December 2010 — Rémi Paquot v État Belge — SPF Finances

(Case C-622/10)

(2011/C 80/24)

Language of the case: French

Referring court

Tribunal de première instance, Namur

Parties to the main proceedings

Applicant: Rémi Paquot

Defendant: État Belge — SPF Finances