Defendant: Republic of Bulgaria (represented by: T. Ivanov, D. Drambozova and E. Petranova, acting as Agents)

Intervener in support of the defendant: Republic of Poland (represented by: B. Majczyna and M. Szpunar, acting as Agents)

Re:

Failure of a Member State to fulfil obligations — Infringement of Articles 7(3) and 8(1) of Directive 2001/14/EC of the European Parliament and of the Council of 26 February 2001 on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification (OJ 2001 L 75, p. 1) — Charging scheme for access to railway infrastructure — Notion of 'cost directly incurred as a result of operating the train service' — Income exceeding the costs directly incurred as a result of operating the train service — Conditions for the application of Article 8(1) of Directive 2001/14/EC.

Operative part of the judgment

The Court:

1. *Declares that, by allowing to be included in the calculation of charges incurred for all of the minimum services and for access by the network to the service infrastructure costs, namely staff remuneration and social security contributions, which cannot be considered to be directly incurred as a result of operating the train service, the Republic of Bulgaria has failed to fulfil its obligations under Article 7(3) of Directive 2001/14/EC of the European Parliament and of the Council of 26 February 2001 on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure, as amended by Directive 2007/58/EC of the European Parliament and of the Council of 23 October 2007;*

2. *Dismisses the action as to the remainder;*

3. *Orders the European Commission, the Republic of Bulgaria and the Republic of Poland to bear their own costs.*

(1) OJ C 174, 16.6.2012.

Judgment of the Court (Third Chamber) of 13 February 2014 (requests for a preliminary ruling from the Tribunale amministrativo regionale per il Lazio (Italy)) — Airport Shuttle Express scarl (C-162/12), Giovanni Panarisi (C-162/12), Società Cooperativa Autonoleggio Piccola arl (C-163/12) and Gianpaolo Vivani (C-163/12) v Comune di Grottaferrata

(Joined Cases C-162/12 and C-163/12) (1)

(Requests for a preliminary ruling — Articles 49 TFEU, 101 TFEU and 102 TFEU — Regulation (EEC) No 2454/92 — Regulation (EC) No 12/98 — Car and driver hire services — National and regional legislation — Authorisation issued by municipalities — Conditions — Purely internal situations — Jurisdiction of the Court — Whether the requests are admissible)

(2014/C 93/07)

Language of the case: Italian

Referring court

Tribunale amministrativo regionale per il Lazio

Parties to the main proceedings

Applicants: Airport Shuttle Express scarl (C-162/12), Giovanni Panarisi (C-162/12), Società Cooperativa Autonoleggio Piccola arl (C-163/12) and Gianpaolo Vivani (C-163/12)

Defendant: Comune di Grottaferrata

In the presence of: Federnoleggio

Re:

Requests for a preliminary ruling — Tribunale amministrativo regionale del Lazio — Interpretation of Articles 26 TFEU, 49 TFEU and 90 TFEU; Article 3 TEU, read in conjunction with Article 4(3) TEU and Articles 3 TFEU, 4 TFEU, 5 TFEU and 6 TFEU; Articles 101 and 102 TFEU; Council Regulation (EEC) No 2454/92 of 23 July 1992 laying down the conditions under which non-resident carriers may operate national road passenger transport services within a Member State (OJ 1992 L 251, p. 1); and Council Regulation (EC) No 12/98 of 11 December 1997 laying down the conditions under which non-resident carriers may operate national road passenger transport services within a Member State (OJ 1998 L 4, p. 10) — Car and driver hire service — National legislation making the provision of that service conditional upon possession of an authorisation issued by the municipal authorities and requiring anyone holding such an authorisation to have the normal base for their vehicle(s) located in the territory of the municipality which issued the authorisation, and to begin and end the hire in that territory.

Operative part of the judgment

The Court of Justice of the European Union does not have jurisdiction to answer the requests from the Tribunale amministrativo regionale per il Lazio (Italy) for a preliminary ruling, made by decisions of 19 October 2011 and 1 December 2011 in Joined Cases C-162/12 and C-163/12, to the extent that those requests concern the interpretation of Article 49 TFEU. Those requests are inadmissible to the extent that they concern the interpretation of other provisions of EU law.

([1]) OJ C 165, 9.6.2012.

Judgment of the Court (First Chamber) of 23 January 2014 (request for a preliminary ruling from the Finanzgericht Hamburg (Germany)) — DMC Beteiligungsgesellschaft mbH v Finanzamt Hamburg-Mitte

(Case C-164/12) ([1])

(Taxation — Corporation tax — Transfer of an interest in a partnership to a capital company — Book value — Value as part of a going concern — Agreement on the prevention of double taxation — Immediate taxation of unrealised capital gains — Different treatment — Restriction on free movement of capital — Preserving the balanced allocation of powers to impose taxes between the Member States — Proportionality)

(2014/C 93/08)

Language of the case: German

Referring court

Finanzgericht Hamburg

Parties to the main proceedings

Applicant: DMC Beteiligungsgesellschaft mbH

Defendant: Finanzamt Hamburg-Mitte

Re:

Request for a preliminary ruling — Finanzgericht Hamburg — Interpretation of Article 43 EC (now Article 49 TFEU) — Partnerships established in another Member State contributing interests in an undertaking to a national capital company in exchange for shares in that company — Legislation providing that in such a case the capital contributed must be entered in the balance sheet of the capital company at its true value and not its book value, thus bringing forward the date on which the unrealised capital gains will be taxed — Whether it is possible to pay the tax in five annual instalments if a guarantee is provided.

Operative part of the judgment

1. *Article 63 TFEU must be interpreted as meaning that the objective of preserving the balanced allocation of the power to impose taxes between Member States may justify the legislation of a Member State which requires assets in a limited partnership contributed to the capital of a capital company with its registered office in the territory of that Member State to be assessed at their value as part of a going concern, thus giving rise to the taxation, before they are actually realised, of the capital gains relating to those assets generated in that territory, if it will in fact be impossible for that Member State to exercise its powers of taxation in relation to those gains when they are in fact realised, which is a matter for the national court to determine.*

2. *The national legislation of a Member State which provides for the immediate taxation of unrealised capital gains generated in its territory does not go beyond what is necessary to attain the objective of the preservation of the balanced allocation of the power to impose taxes between Member States, provided that, where the taxable person elects for deferred payment, the requirement to provide a bank guarantee is imposed on the basis of the actual risk of non-recovery of the tax.*

([1]) OJ C 217, 21.7.2012

Judgment of the Court (Fourth Chamber) of 30 January 2014 (request for a preliminary ruling from the Conseil d'État (Belgium)) — Aboubacar Diakité v Commissaire général aux réfugiés et aux apatrides

(Case C-285/12) ([1])

(Directive 2004/83/EC — Minimum standards for granting refugee status or subsidiary protection status — Person eligible for subsidiary protection — Article 15(c) — Serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of armed conflict — 'Internal armed conflict' — Interpretation independent of international humanitarian law — Criteria for assessment)

(2014/C 93/09)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Appellant: Aboubacar Diakité