

**JUDGMENT OF THE COURT****(Sixth Chamber)****of 29 September 1999**

**in Case C-56/98 (reference for a preliminary ruling from the Supremo Tribunal Administrativo): Modelo SGPS SA v Director-Geral dos Registos e Notariado<sup>(1)</sup>**

**(Directive 69/335/EEC — Indirect taxes on the raising of capital — Charge for drawing up a notarially attested act recording an increase in share capital and a change in a company's name and registered office)**

(1999/C 366/20)

(Language of the case: Portuguese)

*(Provisional translation; the definitive translation will be published in the European Court Reports)*

In Case C-56/98: reference to the Court under Article 177 of the EC Treaty (now Article 234 EC) from the Supremo Tribunal Administrativo, Portugal, for a preliminary ruling in the proceedings pending before that court between Modelo SGPS SA and Director-Geral dos Registos e Notariado, in the presence of the Ministério Público — on the interpretation of Articles 4(3), 10 and 12(1)(e) of Council Directive 69/335/EEC of 17 July 1969 concerning indirect taxes on the raising of capital (OJ, English Special Edition 1969 (11), p. 412), as amended by Council Directive 85/303/EEC of 10 June 1985 (OJ 1985 L 156, p. 23) — the Court (Sixth Chamber), composed of: P.J.G. Kapteyn, President of the Chamber, J.L. Murray and H. Ragnemalm (Rapporteur), Judges; G. Cosmas, Advocate General; L. Hewlett, Administrator, for the Registrar, has given a judgment on 29 September 1999, in which it has ruled:

1. Council Directive 69/335/EEC of 17 July 1969 concerning indirect taxes on the raising of capital, as amended by Council Directive 85/303/EEC of 10 June 1985, must be interpreted as meaning that charges constitute taxes for the purposes of the directive where they are collected for drawing up notarially attested acts recording a transaction covered by the directive, under a system where notaries are employed by the State and the charges in question are paid in part to that State for the financing of its official business.
2. A charge payable for drawing up a notarially attested act recording an increase in share capital or a change in a company's name or registered office is, where it amounts to a tax for the purposes of Directive 69/335, as amended by Directive 85/303, in principle prohibited under Article 10(c) thereof.
3. 'Fees or dues' within the meaning of Article 12(1)(e) of Directive 69/335, as amended by Directive 85/303, do not cover a charge collected for drawing up a notarially attested act recording

*an increase in share capital or a change in a company's name or registered office, such as the charge at issue in the main proceedings, the amount of which increases in direct proportion to the share capital raised and in respect of which there is no upper limit.*

4. Article 10 of Directive 69/335, as amended by Directive 85/303, creates rights on which individuals may rely in proceedings before the national courts.

<sup>(1)</sup> OJ No C 113 of 11.4.1998.

**JUDGMENT OF THE COURT****(Sixth Chamber)****of 5 October 1999**

**in Case C-179/95: Kingdom of Spain v Council of the European Union<sup>(1)</sup>**

**(Fisheries — Regulation laying down limits on and distributing fishing opportunities among Member States — Fishing quota exchanges — Annulment)**

(1999/C 366/21)

(Language of the case: Spanish)

*(Provisional translation; the definitive translation will be published in the European Court Reports)*

In Case C-179/95: Kingdom of Spain (Agents: A. Navarro González and R. Silva de Lapuerta) v Council of the European Union (Agents: J. Carbery and G.L. Ramos Ruano), supported by Commission of the European Communities (Agents: T. van Rijn and B. Vilá Costa) — application for annulment of the final sentence of point 1.1(i) of Annex IV to Council Regulation (EC) No 685/95 of 27 March 1995 on the management of the fishing effort relating to certain Community fishing areas and resources (OJ 1995 L 71, p. 5) and of the fifth heading, on anchovies, in Annex I to Council Regulation (EC) No 746/95 of 31 March 1995 amending Regulation (EC) No 3362/94 fixing, for certain fish stocks and groups of fish stocks, the total allowable catches for 1995 and certain conditions under which they may be fished (OJ 1995 L 74, p. 1) — the Court (Sixth Chamber), composed of: G. Hirsch, President of the Second Chamber, acting as President of the Second Chamber (Rapporteur), J.L. Murray and H. Ragnemalm, Judges; S. Alber, Advocate General; D. Louterman-Hubeau, Principal Administrator, for the Registrar, has given a judgment on 5 October 1999, in which it:

1. Dismisses the action;