2. *The Territorio Histórico de Álava — Diputación Foral de Álava, the Territorio Histórico de Bizkaia — Diputación Foral de Bizkaia, the Territorio Histórico de Gipuzkoa — Diputación Foral de Gipuzkoa y Juntas Generales de Gipuzkoa and the Comunidad autónoma del País Vasco — Gobierno Vasco are ordered to pay the costs.*

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(1) OJ C 109 of 4.5.2002.

ORDER OF THE COURT

(First Chamber)

of 27 March 2003

in Case C-306/02 (reference for a preliminary ruling from the Commissione Tributaria di Primo Grado di Trento, Sezione No 6): Petrolvilla & Bortolotti Spa and Others v Agenzia delle Entrate per la Provincia di Trento (1)

(Article 104(3) of the Rules of Procedure — Directive 69/335/EEC — Indirect taxes on the raising of capital)

(2003/C 213/08)

(Language of the case: Italian)

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

In Case C-306/02: reference to the Court under Article 234 EC from the Commissione Tributaria di Primo Grado di Trento (Italy) for a preliminary ruling in the proceedings pending before that court between Petrolvilla & Bortolotti Spa and Others and Agenzia delle Entrate per la Provincia di Trento — on the interpretation of Council Directive 69/335/EEC concerning indirect taxes on the raising of capital (OJ, English Special Edition 1969 (II), p. 25), as amended by Directive 85/303/EEC of 10 June 1985 (OJ 1985 L 156, p. 23) — the Court (First Chamber), composed of: M. Wathelet, President of the Chamber, P. Jann (Rapporteur) and A. Rosas, Judges; P. Léger, Advocate General; R. Grass, Registrar, has made an order on 27 March 2003, in which it has ruled:

A tax such as the tax on companies' net assets does not constitute a tax having an economic effect equivalent to capital duty and, accordingly, is not incompatible with Council Directive 69/335/EEC concerning indirect taxes on the raising of capital (OJ, English Special Edition 1969, as amended by Directive 85/303/EEC of 10 June 1985.

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(1) OJ 2002 C 261.

Reference for a preliminary ruling by the Landgericht Stuttgart by order of that Court of 7 April 2003 in the case concerning notarial costs with the following participants: (1) Notar Mathias Längst, (2) SABU Schuh & Marketing GmbH, (3) President of the Landgericht Stuttgart and (4) District Auditor of the Landgericht Stuttgart

(Case C-165/03)

(2003/C 213/09)

Reference has been made to the Court of Justice of the European Communities by order of the Landgericht Stuttgart (Regional Court, Stuttgart) of 7 April 2003, received at the Court Registry on 10 April 2003, for a preliminary ruling in the case concerning notarial costs with the following participants: (1) Notar Mathias Längst, (2) SABU Schuh & Marketing GmbH, (3) President of the Landgericht Stuttgart and (4) District Auditor of the Landgericht Stuttgart on the following questions:

1) In a legal system such as that of the Württemberg region of Baden-Württemberg, where there are both notaries who are self-employed and notaries who are employed as civil servants and the notary himself is always the person to whom the fees are due, but where, if the services concerned are carried out by a notary employed as a civil servant, he must remit a — fixed — portion of the fees to the State, which is his employer and which uses those proceeds to fund its activities, are the fees of the notary employed as a civil servant for the notarisation of a legal transaction covered by Directive 69/335, as amended, to be regarded as tax for the purposes of that directive, in contrast to the situation that gave rise to the order in Case C-264/00 Gründerzentrum-Betriebs-GmbH (not yet published in the European Court reports)?

2) If so: if the State waives its claim to the portion of the fees due to it in respect of that legal transaction, thereby ceasing to enforce the legal provision requiring a portion of the fees to be remitted to the State, do the fees cease to constitute a tax for the purposes of Directive 69/335?

Reference for a preliminary ruling by the Tribunale Amministrativo per la Sardegna by order of that Court of 15 January 2003 and 12 February 2003 in the case of Impresa Portuale di Cagliari s.r.l. against Tirrenia di Navigazione SpA and C.T.O. Combined Terminals Operators s.r.l.

(Case C-174/03)

(2003/C 213/10)

Reference has been made to the Court of Justice of the European Communities by order of the Tribunale Amministrativo per la Sardegna (The Administrative Court for Sardinia) of 15 January 2003 and 12 February 2003, received at the Court Registry on 14 April 2003, for a preliminary ruling in the case of Impresa Portuale di Cagliari s.r.l. against Tirrenia di Navigazione SpA and C.T.O. Combined Terminals Operators s.r.l. on the following questions:

(a) whether, in accordance with the recitals in the preamble to Directive 93/38 ([1]), a company in the maritime transport sector, which in some cases operates under a *de facto* monopoly and in others in circumstances of free competition and which benefits from State aid is to be regarded as always subject to the Directive 93/98,

and, in the event that such a company is subject to the rules on public notice,

(b) whether the 'technical specifications' mentioned in Article 18 of Directive 93/38 (transposed by Article 19 of Legislative Decree No 158/95) must be established prior to the procedure for selecting a contractor and whether they are subject to any publicity requirements.

([1]) Council Directive 93/38/EEC of 14 June 1993 coordinating the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors (OJ L 199 of 09.08.1993, p. 84).

Appeal brought on 6 May 2003 by Strabag Benelux NV against the judgment delivered on 25 February 2003 by the Court of First Instance (Fifth Chamber) in Case T-183/00 Strabag Benelux NV v Council of the European Union

(Case C-186/03 P)

(2003/C 213/11)

An appeal has been brought before the Court of Justice of the European Communities on 6 May 2003 by Strabag Benelux NV, represented by A. Delvaux and V. Bertrand, with an address for service in Luxembourg, against the judgment delivered on 25 February 2003 by the Court of First Instance (Fifth Chamber) in Case T-183/00 Strabag Benelux NV v Council of the European Union.

The appellant claims that the Court should:

— set aside the judgment of the Court of First Instance inasmuch as it dismissed the applications for annulment and compensation on the ground that they were unfounded;

— uphold the forms of order sought by STRABAG in respect of those applications and accordingly:

  — annul the decision of 12 April 2000 by which the Council awarded to the DE WAELE company the refitting and general maintenance work contract which was the subject of invitation to tender No 107865 published in the Official Journal of the European Communities S 146 of 30 July 1999, and by which the Council implicitly rejected the tender submitted by STRABAG;

  — order the Council of the European Union to pay to STRABAG, subject to any increase, the sum of BEF 153 421 286 or EUR 3 803 214 together with interest thereon at the rate of 6 % as from 12 April 2000;

— order the Council of the European Union to pay the costs.

Pleas in law and main arguments

In support of its application for annulment, the appellant puts forward four pleas in law.

The first plea is divided into two limbs. The appellant first criticises the Court of First Instance for failing properly to construe the concepts of 'contract' and 'decision' in so far as it took the view that the contract which the Council concluded with the successful tenderer constituted the decision to award the contract. Second, the appellant claims that the Court of First Instance breached Article 8(3) of Directive 93/37/EEC concerning the coordination of procedures for the award of public works contracts in so far as the Court took the view that the written report required under that provision could consist of three documents, that is to say, the report to the