

1. The appeal is dismissed.
2. Glaverbel SA shall pay the costs.

(¹) OJ C 31 of 8.2.2003.

definite influence over the company's decisions and allows him to determine its activities.

2. Article 56 EC precludes national legislation, such as that mentioned above, where the shareholding transferred does not give its holder definite influence over the company's decisions or allow him to determine its activities.

(¹) OJ C 289 of 29.11.2003.

ORDER OF THE COURT

(Second Chamber)

of 8 June 2004

in Case C-268/03 (reference for a preliminary ruling from the Rechtbank van eerste aanleg, Antwerp): Jean-Claude De Baeck v Belgische Staat (¹)

(Article 104(3) of the Rules of Procedure — Fiscal legislation — Taxation on income of natural persons — Assignment of a major holding in the capital of a resident company — Detailed rules governing charge to tax on resultant gain)

(2004/C 228/34)

(Language of the case: Dutch)

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

In Case C-268/03: reference to the Court under Article 234 EC by the Rechtbank van eerste aanleg, Antwerp (Belgium) for a preliminary ruling in the proceedings pending before that court between Jean-Claude De Baeck and Belgische Staat — on the interpretation of Articles 43 EC, 46 EC, 48 EC, 56 EC and 58 CE — the Court (Second Chamber), composed of: C.W.A. Timmermans (Rapporteur), President of the Chamber, C. Gulmann, J.-P. Puissochet, J.N. Cunha Rodrigues and N. Colneric, Judges; F.G. Jacobs, Advocate General; R. Grass, Registrar, has made an order on 8 June 2004, the operative part of which is as follows:

1. Articles 43 EC and 48 EC preclude national legislation, such as Articles 67(8) and 67 ter of the Belgian income tax code, in the version in force at the material time for the purposes of the main proceedings, pursuant to which gains secured on the assignment for valuable consideration, otherwise than in the exercise of a business activity, of shares or stock in companies, associations, establishments or bodies, attract a charge to tax where the transfer is made to companies, associations, establishments or bodies established in another Member State, whereas, in the same circumstances, those gains are not chargeable to tax where that transfer is made to Belgian companies, associations, establishments or bodies, provided that the shareholding transferred gives its holder

ORDER OF THE COURT

(First Chamber)

of 27 May 2004

in Case C-517/03: IAMA Consulting Srl v Commission of the European Communities (¹)

(Arbitration clause — Action before the Court of First Instance — Counterclaim — Jurisdiction of the Court of Justice)

(2004/C 228/35)

(Language of the case: Italian)

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

In Case C-517/03: IAMA Consulting Srl, established in Milan (Italy) (lawyer: V. Salvatore) v Commission of the European Communities (Agent: E. de March, assisted by A. Dal Ferro) — Counterclaim submitted by the Commission of the European Communities to the Court of First Instance of the European Communities seeking repayment of financial assistance paid in the context of the REGIS 22337 and Refiag 23200 projects, the Court (First Chamber), composed of P. Jann, President of the Chamber, J. N. Cunha Rodrigues, K. Schiemann (Rapporteur), M. Ilešić et E. Levits, Judges; M. Poiares Maduro, Advocate General; R. Grass, Registrar, made an Order on 27 May 2004, the operative part of which is as follows:

- (1) The case is referred back to the Court of First Instance of the European Communities.
- (2) The costs are reserved.

(¹) OJ C 47 of 21.2.2004.