

Judgment of the Court (Third Chamber) of 14 September 2006 (reference for a preliminary ruling from the Bundesfinanzhof — Germany) — Centro di Musicologia Walter Stauffer v Finanzamt München für Körperschaften

(Case C-386/04) ⁽¹⁾

(Free movement of capital — Corporation tax — Exemption of rental income — Residence qualification — Charitable foundation governed by private law)

(2006/C 281/13)

Language of the case: German

Referring court

Bundesfinanzhof

Parties to the main proceedings

Applicant: Centro di Musicologia Walter Stauffer

Defendant: Finanzamt München für Körperschaften

Re:

Reference for a preliminary ruling — Bundesfinanzhof — Interpretation of Article 52 of the EC Treaty (now, after amendment, Article 43 EC), Article 58 of the EC Treaty (now Article 48 EC), Article 59 of the EC Treaty (now, after amendment, Article 49 EC) and Article 73b of the EC Treaty (now Article 56 EC) — National corporation tax legislation — Exemption for charitable foundations established under private law receiving income in the territory from the letting of property subject to the condition that those foundations are resident.

Operative part of the judgment

Article 73b of the EC Treaty, in conjunction with Article 73d of the EC Treaty, must be interpreted as precluding a Member State which exempts from corporation tax rental income received in its territory by charitable foundations which, in principle, have unlimited tax liability if they are established in that Member State, from refusing to grant the same exemption in respect of similar income to a charitable foundation established under private law solely on the ground that, as it is established in another Member State, that foundation has only limited tax liability in its territory.

⁽¹⁾ OJ C 262, 23.10.2004.

Judgment of the Court (Grand Chamber) of 19 September 2006 (references for a preliminary ruling from the Bundesverwaltungsgericht, Germany) — i-21 Germany GmbH and Arcor AG & Co. KG v Bundesrepublik Deutschland

(Joined Cases C-392/04 and C-422/04) ⁽¹⁾

(Telecommunication services — Directive 97/13/EC — Article 11(1) — Fees and charges for individual licences — Article 10 EC — Primacy of Community law — Legal certainty — Final administrative decision)

(2006/C 281/14)

Language of the cases: German

Referring court

Bundesverwaltungsgericht (Germany)

Parties to the main proceedings

Appellants: i-21 Germany GmbH (C-392/04), Arcor AG & Co. KG (C-422/04)

Respondent: Bundesrepublik Deutschland

Re:

Reference for a preliminary ruling — Bundesverwaltungsgericht — Interpretation of Article 10 EC and Article 11(1) of Directive 97/13/EC of the European Parliament and of the Council of 10 April 1997 on a common framework for general authorisations and individual licences in the field of telecommunications services (OJ 1997 L 117, p. 5) — Fees applicable to the undertakings which have individual licences, calculated to anticipate the national regulatory authority's general administrative costs over a period of 30 years

Operative part of the judgment

1. Article 11(1) of Directive 97/13/EC of the European Parliament and of the Council of 10 April 1997 on a common framework for general authorisations and individual licences in the field of telecommunications services precludes the application of a fee for individual licences calculated by taking into account the regulatory body's general administrative costs linked to implementing those licences over a period of 30 years.

2. Article 10 EC, read in conjunction with Article 11(1) of Directive 97/13, requires the national court to ascertain whether legislation which is clearly incompatible with Community law, such as that on which the fee assessments at issue in the main proceedings are based, constitutes manifest unlawfulness within the meaning of the national law concerned. If that is the case, it is for the national court to draw the necessary conclusions under its national law with regard to the withdrawal of those assessments.

(¹) OJ C 273, 6.11.2004.
OJ C 284, 20.11.2006.

Judgment of the Court (Grand Chamber) of 12 September 2006 (reference for a preliminary ruling from the Østre Landsret (Denmark)) — Laserdisken ApS v Kulturministeriet

(Case C-479/04) (¹)

(Directive 2001/29/EC — Harmonisation of certain aspects of copyright and related rights in the information society — Article 4 — Distribution rights — Rule of exhaustion — Legal basis — International agreements — Competition policy — Principle of proportionality — Freedom of expression — Principle of equal treatment — Articles 151 EC and 153 EC)

(2006/C 281/15)

Language of the case: Danish

Referring court

Østre Landsret (Denmark)

Parties to the main proceedings

Applicant: Laserdisken ApS

Defendant: Kulturministeriet

Re:

Reference for a preliminary ruling — Østre Landsret — Validity and interpretation of Article 4(2) of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society (OJ 2001 L 167, p. 10) — Exhaustion of the rightholder's rights only as of the first sale or first other transfer of ownership in the Community by the rightholder or with his consent — Imports from third countries of DVDs of cinematographic works.

Operative part of the judgment

1. Consideration of the first question does not reveal any information such as to affect the validity of Article 4(2) of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society.
2. Article 4(2) of Directive 2001/29 is to be interpreted as precluding national rules providing for exhaustion of the distribution right in respect of the original or copies of a work placed on the market outside the European Community by the rightholder or with his consent.

(¹) OJ C 31, 05.02.2005.

Judgment of the Court (First Chamber) of 14 September 2006 (reference for a preliminary ruling from the College van Beroep voor het bedrijfsleven — Netherlands) — J. Slob v Productschap Zuivel

(Case C-496/04) (¹)

(Milk and milk products — Direct sales — Reference quantities — Overruns — Additional levy on milk — Obligation on producers to keep stock accounts — Article 7(1) and (3) of Regulation (EEC) No 536/93 — Supplementary national measures — Competence of the Member States)

(2006/C 281/16)

Language of the case: Dutch

Referring court

College van Beroep voor het bedrijfsleven

Parties to the main proceedings

Applicant: J. Slob

Defendant: Productschap Zuivel

Re:

Reference for a preliminary ruling — College van Beroep voor het Bedrijfsleven — Interpretation of Article 7(1)(f) and (3) of Commission Regulation (EEC) No 536/93 of 9 March 1993 laying down detailed rules on the application of the additional levy on milk and milk products (OJ 1993 L 57, p.12) — Scope