



Press and Information

Court of Justice of the European Union

**PRESS RELEASE No 38/12**

Luxembourg, 29 March 2012

Judgments in Case C-417/10

Ministero dell'Economia e delle Finanze, Agenzia delle Entrate v 3M Italia SpA and Case C-500/10 Ufficio IVA di Piacenza v Belvedere Costruzioni Srl

---

**The conclusion of tax proceedings pending before the Corte Suprema di Cassazione and the Commissione Tributaria Centrale which were brought more than 10 years ago is compatible with European Union law.**

*The aim of this **exceptional** measure is to ensure observance of the principle that judgment must be given within a reasonable time.*

With a view to reducing the length of tax proceedings and thus observing the principle that judgment must be given within a reasonable time, within the meaning of the European Convention for the Protection of Human Rights and Fundamental Freedoms, Italy adopted in 2010 a legislative provision under which proceedings which had been pending for more than 10 years at the date of its entry into force, in which the State tax authorities had been unsuccessful at first and second instance, were concluded without an examination of the appeal.

In particular, proceedings pending before the Commissione Tributaria Centrale (Central Tax Court) are automatically concluded, and those pending before the Corte Suprema di Cassazione (Court of Cassation, Italy) can be concluded on payment of an amount equivalent to 5% of the value of the claim and the abandonment of any claim to compensation.

The Court of Justice has before it two references for preliminary rulings, the first seeking to know whether European Union law precludes the application of such a provision in matters of direct taxation, and the second relating to the compatibility of such a provision with the European Union rules on VAT.

The Court of Cassation and the Central Tax Court ask the Court in particular whether the national legislation is compatible with the obligation to suppress abusive practices, the principles of the single market and the obligation to recover VAT, because it entails a virtually complete waiver of recovery of the tax claim or of VAT.

**In the first case, the Court starts by recalling that, while direct taxation falls within the competence of the Member States,** they must none the less exercise that competence consistently with European Union law. Next, it considers that European Union law does not in this case preclude a provision of national law such as that at issue which, in order to limit the length of tax proceedings, enables tax proceedings to be concluded under certain conditions.

In particular, in its examination of the compatibility of the national provisions with the rules on State aid, the Court considers that the measures in question are not selective and do not therefore constitute State aid.<sup>1</sup>

In the second case, which concerns **the automatic conclusion of proceedings pending before the Central Tax Court, hearing applications for adjustment of VAT,** the Court recalls that every Member State is under an obligation to take all legislative and administrative measures appropriate for ensuring collection of all the VAT due on its territory. While the Member States enjoy a certain measure of latitude as to how they use the means at their disposal, that latitude is nevertheless

---

<sup>1</sup> Case C-66/02 *Italy v Commission* (see also Press Release No 113/05). That judgment concerned the reform of the banking system in Italy.

limited by the obligation to ensure effective collection of the European Union's own resources, subject to compliance with the principle that judgment should be given within a reasonable time.

The Court emphasises the difference between the automatic conclusion of proceedings pending before the tax court of third instance and the general and indiscriminate waiver of verification of the taxable transactions effected during a series of tax periods, introduced very shortly after the expiry of the deadlines for payment of the VAT payable, which was considered to be contrary to European Union law in a previous case.<sup>2</sup>

In the present case, it stresses that **this is an exceptional provision**, of a specific and limited nature, whose **aim is to ensure observance of the principle that judgment must be given within a reasonable time**, and which does not create significant differences in the way in which taxable persons are treated as a whole. It does not therefore infringe the principle of fiscal neutrality.

Consequently, the Court finds that European Union law does not preclude the provision of Italian law.

---

**NOTE:** A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

---

*Unofficial document for media use, not binding on the Court of Justice.*

The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

Press contact: Christopher Fretwell ☎ (+352) 4303 3355

---

<sup>2</sup> Case C-132/06 Commission v Italy (see also Press Release No 55/08). That judgment concerned the lapse of fiscal administrative penalties ('tax amnesty') relating to VAT.