Arrêt de la Cour
Case C-319/02

Proceedings brought by

Petri Manninen

(Reference for a preliminary ruling from the Korkein hallinto-oikeus)

(Income tax – Tax credit for dividends paid by Finnish companies – Articles 56 EC and 58 EC – Cohesion of the tax system)

Summary of the Judgment

Free movement of capital – Restrictions – Tax credit granted to taxpayers in respect of dividends paid by limited liability companies – Restriction to national companies – Not permissible – Justification – None

(Arts 56 EC and 58 EC)

Articles 56 EC and 58 EC preclude national legislation whereby the entitlement of a fully-taxable person in a Member State to a tax credit on dividends paid to him by limited companies, which offsets the corporation tax due by those companies against the tax due from the shareholder by way of income tax on revenue from capital, is excluded where those companies are not established in that State.

Such tax legislation constitutes a restriction on the free movement of capital in that it has the effect of deterring fully-taxable persons in the Member State concerned from investing their capital in companies established in another Member State. It also has a restrictive effect as regards companies established in other Member States in that it constitutes an obstacle to their raising capital in the Member State concerned.

That legislation cannot be justified by an objective difference in situation capable of giving rise to a difference in tax treatment in accordance with Article 58(1)(a) EC. In the face of a tax rule which aims to prevent double taxation of the profits distributed by the company in which the investment is made – corporation tax and then income tax – shareholders who are fully taxable in the Member State concerned find themselves in a comparable situation, whether they receive dividends from a company established in that Member State or from a company established in another Member State, since in both cases the dividends are, apart from the tax credit, capable of being subjected to double taxation.

Nor can that legislation be regarded as an emanation of the principle of territoriality, since that principle does not preclude the granting of a tax credit in respect of dividends paid by companies established in other Member States. In any event, having regard to Article 58(1)(a) EC, the principle of territoriality cannot justify different treatment of dividends distributed by companies established in the Member State concerned and those paid by companies established in other Member States, if the categories of dividends concerned by that difference in treatment share the same objective situation.

Furthermore, even if that tax legislation is based on a link between the tax advantage and the

offsetting tax levy, in providing that the tax credit granted to the shareholder fully taxable in the Member State concerned is to be calculated by reference to the corporation tax due from the company established in that Member State on the profits which it distributes, such legislation does not appear to be necessary in order to preserve the cohesion of the national tax system. Having regard to the objective of preventing double taxation, the granting to a shareholder who holds shares in a company established in one Member State of a tax credit calculated by reference to the corporation tax owed by that company in that Member State would not threaten the cohesion of the national tax system and would constitute a measure less restrictive of the free movement of capital.

As for the reduction in tax receipts in relation to dividends paid by companies established in other Member States, this cannot be regarded as an overriding reason in the public interest which may be relied on to justify a measure which is contrary to a fundamental freedom.

(see paras 20, 22-24, 32-36, 38-39, 44-46, 49, 55, operative part)

JUDGMENT OF THE COURT (Grand Chamber)
7 September 2004(1)

(Income tax – Tax credit for dividends paid by Finnish companies – Articles 56 EC and 58 EC – Coherence of the tax system)

In Case C-319/02,Reference for a preliminary ruling under Article 234 EC,by the Korkein hallinto-oikeus (Finland), by order of 10 September 2002, which arrived at the Court on 12 September 2002, in the proceedings brought by
Petri Manninen,

THE COURT (Grand Chamber),,

composed of V. Skouris, Presiden, P. Jann, C.W.A. Timmermans, C. Gulmann, J.-P. Puissochet and J.N. Cunha Rodrigues, Presidents of Chambers, R. Schintgen, F. Macken, N. Colneric, S. von Bahr and K. Lenaerts (Rapporteur), Judges,
Advocate General: J. Kokott,
Registrar: L. Hewlett, Principal Administrator,
having regard to the written procedure and further to the hearing on 17 February 2004,after considering the observations submitted on behalf of:
– Mr Manninen, by himself,
– the Finnish Government, by E. Bygglin and T. Pynnä, acting as Agents,
– the French Government, by G. de Bergues and D. Petrausch, acting as Agents,
– the United Kingdom Government, by K. Manji, acting as Agent, assisted by M. Hoskins, barrister,
– the Commission of the European Communities, by R. Lyal and I. Koskinen, acting as Agents,
after hearing the Opinion of the Advocate General at the sitting on 18 March 2004,

gives the following

Judgment

1 The reference for a preliminary ruling concerns Articles 56 EC and 58 EC.
2 The reference has been submitted in the context of proceedings brought before the Korkein hallinto-oikeus (Supreme Administrative Court) by Mr Manninen, who is challenging the compatibility with Community law of Finnish legislation on the taxation of dividends ('the Finnish tax legislation').

Legal background
Community law
3 Article 56(1) EC provides:
'Within the framework of the provisions set out in this Chapter, all restrictions on the movement of capital between Member States and between Member States and third countries shall be prohibited.'
4 Article 58(1) EC provides:
'The provisions of Article 56 shall be without prejudice to the right of Member States:
a)to apply the relevant provisions of their tax law which distinguish between taxpayers who are not in the same situation with regard to their place of residence or with regard to the place where their capital is invested;
b)to take all requisite measures to prevent infringements of national law and regulations, in particular in the field of taxation …'
5 Article 58(3) EC provides:
'The measures and procedures referred to in paragraphs 1 and 2 shall not constitute a means of arbitrary discrimination or a disguised restriction on the free movement of capital and payments as defined in Article 56.'
Finnish law
6 In accordance with Article 32 of tuloverolaki (Income Tax Law) (1535/1992), dividends received by a person fully taxable in Finland from a Finnish or foreign quoted company are taxable as revenue from capital.
7 Under Article 124 of the tuloverolaki (as amended by Law No 1459/2001), revenue from capital is taxed at the rate of 29%.
8 Companies established in Finland pay a tax on their profits which is also at the rate of 29%. In order to avoid double taxation of such revenue on the distribution of dividends, Article 4(1) of the laki yhtiöveron hyvityksestä (Law on Corporation Tax Credits) (1232/1988), as amended by Law No 1224/1999, allows shareholders a tax credit equal to 29/71ths of the amount of the dividends they received during the relevant tax year.
9 In accordance with Article 4(2) of the Law on Corporation Tax Credits, as amended by Law No 1224/1999, the dividend and the tax credit constitute taxable revenue in the hands of the shareholder. The effect of granting the tax credit is that the total tax on profits distributed by a quoted company amounts to 29%.
10 Under Article 1 of the Law on Corporation Tax Credits, the tax credit applies only to dividends distributed by Finnish companies to persons fully taxable in Finland.
11 Should the tax paid by a Finnish company by way of corporation tax turn out to be less than 29/71ths of the amount of dividends which it has been decided to distribute during the tax year in question, then, in accordance with Article 9 of the Law on Corporation Tax Credits, as amended by Law No 1542/1992, the difference is charged to that company by means of an additional tax.

The dispute in the main proceedings and the questions referred
12 Mr Manninen is fully taxable in Finland. He holds shares in a Swedish company quoted on the Stockholm (Sweden) Stock Exchange.

13 The profits distributed by that Swedish company in the form of dividends to Mr Manninen have already borne corporation tax in Sweden. The dividends also bear a tax in Sweden on revenue from capital by means of deduction at source. Since dividends distributed by foreign companies to Finnish taxpayers confer no entitlement to a tax credit in Finland, they are subject in that Member State to income tax on revenue from capital at the rate of 29%. However, in accordance with Convention 26/1997 concluded between Member States of the Nordic Council for the avoidance of double taxation in the matter of income tax and wealth tax, the tax deducted at source in Sweden, the rate of which cannot exceed 15% by virtue of Article 10 of that convention, is deductible from the tax due by way of income tax on revenue from capital from the fully taxable shareholder in Finland.
14 On 23 November 2000, Mr Manninen applied to the keskusverolautakunta (Central Tax Commission) for a determination whether, having regard to Articles 56 EC and 58 EC, dividends which he received from a Swedish company were taxable in Finland.
15 In its preliminary decision of 7 February 2001, the keskusverolautakunta held that Mr Manninen was not entitled to the tax credit in respect of dividends paid to him by a Swedish company.
16 Mr Manninen appealed against that decision to the Korkein hallinto-oikeus.
17 It is in those circumstances that the Korkein hallinto-oikeus decided to stay the proceedings and refer the following questions to the Court of Justice for a preliminary ruling:
‘1)Is Article 56 of the Treaty establishing the European Community to be interpreted as precluding a corporation tax credit system like the Finnish one described [in paragraphs 6 to 11 of this judgment], in which the recipient of a dividend who is generally liable to tax in Finland is granted a corporation tax credit in respect of a dividend paid by a domestic share company, but not in respect of dividend income he receives from a share company registered in Sweden?
2)If the answer to the above question is in the affirmative, may Article 58 EC be interpreted as meaning that the provisions of Article 56 are without prejudice to Finland’s right to apply the relevant provisions of the Law on Corporation Tax Credits, since it is a condition for obtaining a corporation tax credit in Finland that the company distributing the dividend has paid the corresponding tax or supplementary tax in Finland, which does not take place with respect to a dividend paid from abroad, in which case taxation is not even carried out once?’

The questions referred
18 In its questions, which may be examined together, the national court is asking in essence whether Articles 56 EC and 58 EC preclude legislation, such as that at issue in the main proceedings, whereby the right of a fully-taxable person in a Member State to the benefit of a tax credit on dividends paid to him by limited companies is excluded where those companies are not established in that State.
19 The first point to be made is that, although direct taxation falls within their competence, the Member States must none the less exercise that competence consistently with Community law (Case C-80/94 *Wielockx* [1995] ECR I-2493, paragraph 16; Case C-264/96 *ICI* [1998] ECR I-4695, paragraph 19; and Case C-311/97 *Royal Bank of Scotland* [1999] ECR I-2651, paragraph 19).
20 As for whether tax legislation such as that at issue in the main proceedings involves a restriction on the free movement of capital within the meaning of Article 56 EC, it should be noted that the tax credit under Finnish tax legislation is designed to prevent the double taxation of company profits distributed to shareholders by setting off the corporation tax due from the company distributing dividends against the tax due from the shareholder by way of income tax on revenue from capital. The end result of such a system is that dividends are no longer taxed in the hands of the shareholder. Since the tax credit applies solely in favour of dividends paid by companies established in Finland, that legislation disadvantages fully taxable persons in Finland who receive dividends from companies

established in other Member States, who, for their part, are taxed at the rate of 29% by way of income tax on revenue from capital.

21 It is undisputed that the tax convention concluded between the States of the Nordic Council for the prevention of double taxation is not capable of eliminating that unfavourable treatment. That convention does not provide for any system for setting off corporation tax against income tax due on revenue from capital. It merely seeks to attenuate the effects of double taxation in the hands of the shareholder in relation to that latter tax.

22 It follows that the Finnish tax legislation has the effect of deterring fully taxable persons in Finland from investing their capital in companies established in another Member State.

23 Such a provision also has a restrictive effect as regards companies established in other Member States, in that it constitutes an obstacle to their raising capital in Finland. Since revenue from capital of non-Finnish origin receives less favourable tax treatment than dividends distributed by companies established in Finland, the shares of companies established in other Member States are less attractive to investors residing in Finland than shares in companies which have their seat in that Member State (Case C-35/98 *Verkooijen* [2000] ECR I-4071, paragraph 35; Case C-334/02 *Commission* v *France* [2004] ECR I-0000, paragraph 24).

24 It follows from the above that legislation such as that at issue in the main proceedings constitutes a restriction on the free movement of capital which is, in principle, prohibited by Article 56 EC.

25 It must, however, be examined whether that restriction on the free movement of capital is capable of being justified having regard to the provisions of the EC Treaty.

26 It should be recalled in that respect that, in accordance with Article 58(1)(a) EC, '… Article 56 shall be without prejudice to the right of Member States … to apply the relevant provisions of their tax law which distinguish between taxpayers who are not in the same situation with regard to … the place where their capital is invested'.

27 According to the Finnish, French and United Kingdom Governments, that provision clearly shows that Member States are entitled to reserve the benefit of the tax credit for dividends paid by companies established in their territory.

28 In that respect, it should be noted that Article 58(1)(a) of the Treaty, which, as a derogation from the fundamental principle of the free movement of capital, must be interpreted strictly, cannot be interpreted as meaning that any tax legislation making a distinction between taxpayers by reference to the place where they invest their capital is automatically compatible with the Treaty. The derogation in Article 58(1)(a) EC is itself limited by Article 58(3) EC, which provides that the national provisions referred to in Article 58(1) 'shall not constitute a means of arbitrary discrimination or a disguised restriction on the free movement of capital and payments as defined in Article 56'.

29 A distinction must therefore be made between unequal treatment which is permitted under Article 58(1)(a) EC and arbitrary discrimination which is prohibited by Article 58(3). In that respect, the case-law shows that, for national tax legislation like that at issue, which, in relation to a fully taxable person in the Member State concerned makes a distinction between revenue from national dividends and that from foreign dividends, to be capable of being regarded as compatible with the Treaty provisions on the free movement of capital, the difference in treatment must concern situations which are not objectively comparable or be justified by overriding reasons in the general interest, such as the need to safeguard the coherence of the tax system (*Verkooijen*, paragraph 43). In order to be justified, moreover, the difference in treatment between different categories of dividends must not go beyond what is necessary in order to attain the objective of the legislation.

30 The Finnish, French and United Kingdom Governments begin by arguing that the dividends paid are fundamentally different in character according to whether they come from Finnish or non-Finnish companies. Unlike profits distributed by non-Finnish companies, those paid in the form of dividends by companies established in Finland are subject to corporation tax in that Member State, conferring entitlement on the part of a

shareholder who is fully taxable in Finland to the tax credit. The difference in treatment between dividends paid by companies established in that State and those paid by companies which do not satisfy that condition is therefore justified, they argue, in the light of Article 58(1)(a) EC.
31 The French Government further argues that the Finnish tax legislation conforms to the principle of territoriality and cannot therefore be regarded as contrary to the Treaty provisions on the free movement of capital (Case C-250/95 *Futura Participations and Singer* [1997] ECR I?2471, paragraphs 18 to 22).
32 In that regard, it needs to be examined whether, in accordance with Article 58(1)(a) EC, the difference in treatment of a shareholder fully taxable in Finland according to whether he receives dividends from companies established in that Member State or from companies established in other Member States relates to situations which are not objectively comparable.
33 It should be noted that the Finnish tax legislation is designed to prevent double taxation of company profits by granting to a shareholder who receives dividends a tax advantage linked to the taking into account of the corporation tax due from the company distributing the dividends.
34 It is true that, in relation to such legislation, the situation of persons fully taxable in Finland might differ according to the place where they invested their capital. That would be the case in particular where the tax legislation of the Member State in which the investments were made already eliminated the risk of double taxation of company profits distributed in the form of dividends, by, for example, subjecting to corporation tax only such profits by the company concerned as were not distributed.
35 That is not the case here, however. As the order for reference shows, both dividends distributed by a company established in Finland and those paid by a company established in Sweden are, apart from the tax credit, capable of being subjected to double taxation. In both cases, the revenue is first subject to corporation tax and then – in so far as it is distributed in the form of dividends – to income tax in the hands of the beneficiaries.
36 Where a person fully taxable in Finland invests capital in a company established in Sweden, there is thus no way of escaping double taxation of the profits distributed by the company in which the investment is made. In the face of a tax rule which takes account of the corporation tax owed by a company in order to prevent double taxation of the profits distributed, shareholders who are fully taxable in Finland find themselves in a comparable situation, whether they receive dividends from a company established in that Member State or from a company established in Sweden.
37 It follows that the Finnish tax legislation makes the grant of the tax credit subject to the condition that the dividends be distributed by companies established in Finland, while shareholders fully taxable in Finland find themselves in a comparable situation, whether they receive dividends from companies established in that Member State or from companies established in other Member States (see, to that effect, Case C-107/94 *Asscher* [1996] ECR I?3089, paragraphs 41 to 49, and Case C-234/01 *Gerritse* [2003] ECR I-5933, paragraphs 47 to 54).
38 Moreover, unlike the legislation at issue in *Futura Participations and Singer*, the Finnish tax legislation cannot be regarded as an emanation of the principle of territoriality. As the Advocate General has pointed out in paragraph 42 of her Opinion, that principle does not preclude the granting of a tax credit to a person fully taxable in Finland in respect of dividends paid by companies established in other Member States (*Futura Participations and Singer*, paragraphs 18 to 22).
39 In any event, having regard to Article 58(1)(a) EC, the principle of territoriality cannot justify different treatment of dividends distributed by companies established in Finland and those paid by companies established in other Member States, if the categories of dividends concerned by that difference in treatment share the same objective situation.

40 Secondly, the Finnish, French and United Kingdom Governments maintain that the Finnish tax legislation is objectively justified by the need to ensure the cohesion of the national tax system (Case C-204/90 *Bachmann* [1992] ECR I-249; Case C-300/90 *Commission* v *Belgium* [1992] ECR I?305). In particular, they argue that, unlike in the case of the tax system examined in *Verkooijen*, there is in this case a direct link between the taxation of the company's profits and the tax credit granted to the shareholder receiving the dividends. They point out that the tax credit is granted to the latter only on condition that that company has actually paid the tax on its profits. If that tax does not cover the minimum tax on the dividends to be distributed, that company is required to pay an additional tax.
41 The Finnish Government adds that, if a tax credit were to be granted to the recipients of dividends paid by a Swedish company to shareholders who were fully taxable in Finland, the authorities of that Member State would be obliged to grant a tax advantage in relation to corporation tax that was not levied by that State, thereby threatening the cohesion of the national tax system.
42 In that respect, it should be noted that, in paragraphs 28 and 21 respectively of the judgments in *Bachmann* and *Commission* v *Belgium*, the Court of Justice acknowledged that the need to preserve the cohesion of a tax system might justify a restriction on the exercise of the fundamental freedoms guaranteed by the Treaty. However, for an argument based on such justification to succeed, a direct link had to be established between the tax advantage concerned and the offsetting of that advantage by a particular tax levy (see, to that effect, Case C-484/93 *Svensson and Gustavsson* [1995] ECR I?3955, paragraph 18; *Asscher*, paragraph 58; *ICI*, paragraph 29; Case C-55/98 *Vestergaard* [1999] ECR I?7641, paragraph 24; Case C-436/00 *X and Y* [2002] ECR I-10829, paragraph 52). As is shown by paragraphs 21 to 23 of the judgment in *Bachmann* and paragraphs 14 to 16 of the judgment in *Commission* v *Belgium*, those judgments are based on the finding that, in Belgian law, there was a direct link, in relation to the same taxpayer liable to income tax, between the ability to deduct insurance contributions from taxable income and the subsequent taxation of sums paid by the insurers.
43 The case-law further shows that an argument based on the need to safeguard the cohesion of a tax system must be examined in the light of the objective pursued by the tax legislation in question (Case C-9/02 *De Lasteyrie du Saillant* [2004] ECR I-0000, paragraph 67).
44 As has already been noted in paragraph 33 of this judgment, the Finnish tax legislation is designed to prevent double taxation of company profits distributed to shareholders. The objective pursued is achieved by granting the taxpayer a tax credit calculated by reference to the rate of taxation of company profits by way of corporation tax (see paragraph 8 of this judgment). Having regard to the identical rate of tax on company profits and on revenue from capital, namely 29%, that tax system finally results in taxing, solely in the hands of companies established in Finland, the profits distributed by them to taxpayers who are fully taxable in Finland, the latter being simply exonerated from tax on the dividends received. Should the tax paid by a Finnish company which pays dividends turn out to be less than the amount of the tax credit, the difference is charged to that company by means of an additional tax.
45 Even if that tax legislation is thus based on a link between the tax advantage and the offsetting tax levy, in providing that the tax credit granted to the shareholder fully taxable in Finland is to be calculated by reference to the corporation tax due from the company established in that Member State on the profits which it distributes, such legislation does not appear to be necessary in order to preserve the cohesion of the Finnish tax system.
46 Having regard to the objective pursued by the Finnish tax legislation, the cohesion of that tax system is assured as long as the correlation between the tax advantage granted in favour of the shareholder and the tax due by way of corporation tax is maintained. Therefore, in a case such as that at issue in the main proceedings, the granting to a shareholder who is fully taxable in Finland and who holds shares in a company established in Sweden of a tax credit calculated by reference to the corporation tax owed by that

company in Sweden would not threaten the cohesion of the Finnish tax system and would constitute a measure less restrictive of the free movement of capital than that laid down by the Finnish tax legislation.
47 It should be noted furthermore that, in *Bachmann* and *Commission* v *Belgium*, the purpose of the tax provisions in question was also to avoid double taxation. The possibility which Belgian legislation gave to physical persons to deduct payments made under life assurance contracts from their taxable income – with the end result of not taxing the income used to pay those contributions – was based on the justification that the capital constituted by means of those contributions would subsequently be taxed in the hands of its holders. In such a system, double taxation was avoided by postponing the sole taxation due until the time when the capital constituted by means of the exonerated contributions was paid. Coherence of the tax system necessarily required that, if the Belgian tax authorities were to allow the deductibility of life assurance contributions from taxable income, they had to be certain that the capital paid by the assurance company at the expiry of the contract would in fact subsequently be taxed. It is in that precise context that the Court of Justice then took the view that there were no less restrictive measures than those forming the subject-matter of *Bachmann* and *Commission* v *Belgium*, which were capable of safeguarding the coherence of the tax system in question.
48 In the case at issue in the main proceedings here, however, the factual context is different. At the time when the shareholder fully taxable in Finland receives dividends, the profits thus distributed have already been subject to taxation by way of corporation tax, irrespective of whether those dividends come from Finnish or from Swedish companies. The objective pursued by the Finnish tax legislation, which is to eliminate the double taxation of profits distributed in the form of dividends, may be achieved by also granting the tax credit in favour of profits distributed in that way by Swedish companies to persons fully taxable in Finland.
49 Whilst, for the Republic of Finland, granting a tax credit in relation to corporation tax due in another Member State would entail a reduction in its tax receipts in relation to dividends paid by companies in other Member States, it has been consistently held in the case-law that reduction in tax revenue cannot be regarded as an overriding reason in the public interest which may be relied on to justify a measure which is in principle contrary to a fundamental freedom (*Verkooijen*, paragraph 59; Case C-136/00 *Danner* [2002] ECR I-8147, paragraph 56; *X and Y*, paragraph 50).
50 At the hearing, the Finnish and United Kingdom Governments referred to various practical obstacles which, in their submission, preclude a shareholder fully taxable in Finland from being granted a tax credit corresponding to the corporation tax due from a company established in another Member State. They argued that the Treaty rules on the free movement of capital apply not only to movements of capital between Member States but also to movements of capital between Member States and non-member countries. According to those governments, bearing in mind the diversity of the tax systems in force, it is impossible in practice to determine exactly the amount of tax, by way of corporation tax, which has affected dividends paid by a company established in another Member State or in a non-member country. They argue that such impossibility is due in particular to the fact that the basis of assessment for corporation tax varies from one country to another and that rates of tax may vary from one year to the next. They further argue that dividends paid by a company do not necessarily arise from the profits of a given accounting year.
51 In that respect, it should first be noted that the case in the main proceedings does not in any way concern the free movement of capital between Member States and non-member countries. This case concerns the refusal by the tax authorities of a Member State to grant a tax advantage to a person fully taxable in that State where that person has received dividends from a company established in another Member State.
52 Moreover, the order for reference shows that, in Finland, the tax credit allowed to the shareholder is equal to 29/71ths of the dividends paid by the company established in that Member State. For the purposes of calculating the tax credit, the numerator of the fraction

to be applied is thus equal to the rate of taxation of company profits by way of corporation tax, and the denominator is equal to the result obtained by deducting that same rate of taxation from the base of 100.

53 Finally, it should also be noted that in Finnish law the tax credit always corresponds to the amount of the tax actually paid by way of corporation tax by the company which distributes the dividends. Should the tax paid by way of corporation tax turn out to be less than the amount of the tax credit, the difference is charged to the company making the distribution by means of an additional tax.

54 In those circumstances, the calculation of a tax credit granted to a shareholder fully taxable in Finland, who has received dividends from a company established in Sweden, must take account of the tax actually paid by the company established in that other Member State, as such tax arises from the general rules on calculating the basis of assessment and from the rate of corporation tax in that latter Member State. Possible difficulties in determining the tax actually paid cannot, in any event, justify an obstacle to the free movement of capital such as that which arises from the legislation at issue in the main proceedings (*Commission* v *France*, paragraph 29).

55 In the light of the above considerations, the answer to the questions referred must be that Articles 56 EC and 58 EC preclude legislation whereby the entitlement of a person fully taxable in one Member State to a tax credit in relation to dividends paid to him by limited companies is excluded where those companies are not established in that State.

Costs

56 Since these proceedings are, for the parties to the main proceedings, a step in the proceedings pending before the national court, the decision on costs is a matter for that court. The costs incurred in submitting observations to the Court, other than those of the said parties, are not recoverable.

On those grounds,

THE COURT (Grand Chamber)

hereby rules:

Articles 56 EC and 58 EC preclude legislation whereby the entitlement of a person fully taxable in one Member State to a tax credit in relation to dividends paid to him by limited companies is excluded where those companies are not established in that State.

Signatures.

1 – Language of the case: Finnish.