The appellant complains in particular that the General Court did not take into account that its application was directed against a decision of the Commission provided for in the two-stage procedure under Regulation No 1049/2001. It would not have been able, in terms of procedural law, to bring an action before the answer the Commission said it would give to the appellant's confirmatory request of 15 October 2009 asking for review of the answer of 9 October 2009 to its initial request. The appellant acted in this respect in accordance with the case-law of the European Union judicature. The period for bringing proceedings started to run from the receipt of the answer to its confirmatory request, deemed to be negative in accordance with Article 8(3) of Regulation No 1049/2001, on 2 December 2009. It ended on 2 February 2010. The application was therefore made in good time, in the opinion of the appellant. The appellant cannot understand how the General Court could, erring in law, set the start of the period for bringing proceedings at 16 October 2009 (the date of making the confirmatory request) and the end at 29 December 2009, without taking into account that it was not until the negative answer to its confirmatory request that the decision of 9 October 2009 (provisional answer to its initial request) became a legal act amenable to challenge.

Reference for a preliminary ruling from the Cour de cassation (Belgium) lodged on 9 May 2011 — État belge v Medicom sprl

(Case C-210/11)

(2011/C 211/28)

Language of the case: French

Referring court

Cour de cassation

Parties to the main proceedings

Applicant: État belge

Defendant: Medicom sprl

Questions referred

1. Are Articles 6(2)(a) and 13B(b) of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment [1] to be interpreted as precluding the private use by the mangers, administrators or members and their families of a company with legal personality that is liable to tax of all or part of a property forming part of the assets of the company and thus treated as forming, in its entirety, part of the assets of the business, from being treated as an exempt supply of services, on the basis that it constitutes a leasing or letting of immovable property within the meaning of Article 13B(b), where there is no provision for payment of rent in money as consideration for that use, which amounts to a benefit in kind that is taxed as such for the purpose of the managers' income tax and such use is therefore regarded for tax purposes as the consideration for a proportion of the work performed by the managers, administrators or members?

2. Are those provisions to be interpreted as meaning that that exemption applies in such circumstances where the company fails to prove that there is an essential link between the operation of the business and the making available of all or part of the property to the managers, administrators or members and, if so, is an indirect link sufficient?

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[1] OJ 1977 L 145, P. 1.

Reference for a preliminary ruling from the Cour de cassation (Belgium) lodged on 9 May 2011 — État belge v Maison Patrice Alard sprl

(Case C-211/11)

(2011/C 211/29)

Language of the case: French

Referring court

Cour de cassation

Parties to the main proceedings

Applicant: État belge

Defendant: Maison Patrice Alard sprl

Questions referred

1. Are Articles 6(2)(a) and 13B(b) of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment [1] to be interpreted as precluding the private use by the mangers, administrators or members and their families of a company with legal personality that is liable to tax of all or part of a property forming part of the assets of the company and thus treated as forming, in its entirety, part of the assets of the business, from being treated as an exempt supply of services, on the basis that it constitutes a leasing or letting of immovable property within the meaning of Article 13B(b), where there is no provision for payment of rent in money as consideration for that use, which amounts to a benefit in kind that is taxed as such for the purpose of the managers' income tax and such use is therefore regarded for tax purposes as the consideration for a proportion of the work performed by the managers, administrators or members?