ORDER OF THE COURT
21 December 1995 *

In Case C-307/95,

REFERENCE to the Court under Article 177 of the EC Treaty by the Commissione Tributaria di Primo Grado, Reggio Emilia (Italy), for a preliminary ruling in the proceedings pending before that court between

Max Mara Fashion Group S. r. l.

and

Ufficio del Registro di Reggio Emilia

on the interpretation of Council Directive 69/335/EEC of 17 July 1969 concerning indirect taxes on the raising of capital (OJ, English Special Edition 1969(II), p. 412), as amended by Council Directive 85/303/EEC of 10 June 1985 (OJ 1985 L 156, p. 23),

THE COURT,

composed of: G. C. Rodríguez Iglesias, President, C. N. Kakouris, D. A. O. Edward, J.-P. Puissochet and G. Hirsch (Presidents of Chambers),

* Language of the case: Italian.

G. F. Mancini, F. A. Schockweiler, J. C. Moitinho de Almeida, P. J. G. Kapteyn, C. Gulmann, J. L. Murray, P. Jann, H. Ragnemalm (Rapporteur), L. Sevón and M. Wathelet, Judges,

Advocate General: G. Cosmas,
Registrar: R. Grass,

after hearing the Advocate General,

makes the following

Order

1 By order of 15 June 1995, received at the Court on 27 September 1995, the Commissione Tributaria di Primo Grado (Tax Court of First Instance), Reggio Emilia, referred for a preliminary ruling under Article 177 of the EC Treaty a question on the interpretation of Council Directive 69/335/EEC of 17 July 1969 concerning indirect taxes on the raising of capital (OJ, English Special Edition 1969(II), p. 412), as amended by Council Directive 85/303/EEC of 10 June 1985 (OJ 1985 L 156, p. 23).

2 A dispute between Max Mara Fashion Group S. r. l. (hereinafter 'Max Mara') and the Ufficio del Registro, Reggio Emilia, was brought before the national court. Max Mara seeks, *inter alia*, the refund of LIT 2 388 722 000, paid on 30 March 1990 by way of stamp duty upon the merger of companies.

3 According to the order for reference, the applicant claims that 'it is evident from the combined provisions of the abovementioned directives that no capital duty

may be levied where one company with share capital makes contributions to another, which is also the situation in the case of mergers between companies'.

4 By letter of 10 November 1995, received at the Court on 13 November 1995, the national court explains, further to the order for reference, that it requests the Court to provide it with information which might enable it to uphold the application and to indicate whether the bases of assessment for capital duty are harmonized in the tax laws of the various Member States. It then seems to consider the problem of the direct effect of Community directives, in particular as to whether the rate of capital duty applicable in Italy is compatible with the relevant directives.

5 It should be observed that the Court of Justice has no jurisdiction, under Article 177 of the EC Treaty, to give a preliminary ruling on the interpretation of rules of national law. The jurisdiction of the Court is confined to considering provisions of Community law only (see, in particular, Case 75/63 *Hoekstra* v *Bedrijfsvereniging Detailhandel* [1964] ECR 177, and Joined Cases C-297/88 and C-197/89 *Dzodzi* [1990] ECR I-3763).

6 It is settled case-law that the need to provide an interpretation of Community law which will be of use to the national court makes it necessary that the national court define the factual and legislative context of the questions it is asking or, at the very least, explain the factual circumstances on which those questions are based (see, in particular, the judgment in Joined Cases C-320/90, C-321/90 and C-322/90 *Telemarsicabruzzo and Others* v *Circostel* [1993] ECR I-393, paragraph 6, and the orders in Case C-157/92 *Pretore di Genova* v *Banchero* [1993] ECR I-1085, paragraph 4, Case C-458/93 *Saddik* [1995] ECR I-511, paragraph 12, and Case C-167/94 *Grau Gomis and Others* [1995] ECR I-1023, paragraph 8).

7 In this respect, it should be pointed out that the information provided and the questions raised in decisions making references must not only enable the Court to give helpful answers but must also give the Governments of the Member States and other interested parties the opportunity to submit observations pursuant to Article 20 of the EC Statute of the Court.

8 It is the Court's duty to ensure that the opportunity to submit observations is safeguarded, bearing in mind that, by virtue of the abovementioned provision, only the decisions making references are notified to the interested parties (the judgment in Joined Cases 141/81, 142/81 and 143/81 *Holdijk and Others* [1982] ECR 1299, paragraph 6, and the abovementioned orders in *Saddik*, paragraph 13, and *Grau Gomis*, paragraph 10).

9 It must be noted that the order for reference does not contain specific questions addressed to the Court, allow the questions on which the national court wishes the Court to give a preliminary ruling to be discerned with any certainty, or furnish sufficient information to comply with the abovementioned requirements. The order for reference does not therefore enable the Court to give a useful interpretation of Community law.

10 It must therefore be held at this stage of the proceedings, pursuant to Articles 92 and 103 of the Rules of Procedure, that the request from the national court is manifestly inadmissible.

Costs

11 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.

On those grounds,

THE COURT

hereby orders:

The request for a preliminary ruling submitted by Commissione Tributaria di Primo Grado, Reggio Emilia, by an order of 15 June 1995 is inadmissible.

Luxembourg, 21 December 1995.

R. Grass — Registrar

G. C. Rodríguez Iglesias — President