Rules relating to the obligation of employers established in a Member State other than Germany to translate documents

In the Commission's view, the requirement for documents to be translated is appropriate to meeting Germany's monitoring needs. However, having regard to the cooperation on information provided for by Article 4 of the Directive on the posting of workers, the obligation to translate all documents is no longer necessary and is therefore too far-reaching.

Rules relating to the obligation of employment agencies established in a Member State other than Germany to notify the competent authorities of the change before each transfer of a posted worker from one building site to another one.

Even if the obligation of employment agencies established outside Germany to notify each change has been slightly amended, the Commission is of the view that there is still unequal treatment, as, in the case of employment agencies established in Germany, the obligation to notify each change falls on the user of the worker's services, while in the case of employment agencies established outside Germany that obligation falls in principle on the supplier of labour and can be transferred to the user of the worker's services only by means of a contractual agreement. This unequal treatment constitutes an inadmissible restriction on the freedom to provide services within the meaning of Article 49 EC.

Reference for a preliminary ruling by the VAT and Duties Tribunals, Manchester Tribunal Centre, by direction of that court dated 24 November 2004, in the case of Dollond and Aitchison Ltd against Commissioners of Customs and Excise.

(Case C-491/04)

(2005/C 45/27)

(Language of procedure: English)

Reference has been made to the Court of Justice of the European Communities by a direction of the VAT and Duties Tribunals, Manchester Tribunal Centre dated 24 November 2004, which was received at the Court Registry on 29 November 2004, for a preliminary ruling in the case of Dollond and Aitchison Ltd and Commissioners of Customs and Excise, on the following questions:

1. Is that part of the payment which is made by a customer to D&A Lenses Direct Limited for the supply of specified services by Dolland & Aitchison Ltd or by its franchisees to be included in the total payment for the specified goods so as to be part of the price paid or payable for the specified good within the meaning of Article 29 of Council Regulation no 92/2913 ([1]) in circumstances where the customer is a private consumer and importer on whose behalf D&A Lenses Direct Ltd accounts for VAT on importation?

   The specified goods are:

   i) Contact lenses

   ii) Cleaning Solutions

   iii) Soaking cases

   The specified services are:

   iv) A contact lens examination

   v) A contact lens consultation

   vi) Any on-going aftercare required by a customer

2. If the answer to 1 above is No, may the amount of the payment for the specified goods nonetheless be calculated under Article 29 or is it necessary to make such calculation under Article 30 of the said Regulations?

3. In view of the fact that the Channel Islands are part of the customs territory of the Community but are not part of the VAT territory for the purposes of the Sixth Council Directive 77/388/EEC ([2]), does any of the guidance set out in Case C-349 Card Protection Plan Limited v Commissioners of Customs and Excise apply for the purposes of determining which part or parts of the transaction comprising the provision of specified services and specified goods fall to be valued for the purposes of applying the Customs Tariff of the European Communities?

([1]) Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code, OJ L 302, 19.10.1992, p. 1

([2]) Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment, OJ L 145, 13.06.1977, p. 1