

Operative part of the judgment

1. Article 19 of Council Directive 86/653/EEC of 18 December 1986 on the coordination of the laws of the Member States relating to self-employed commercial agents must be interpreted as meaning that the indemnity for termination of contract which results from the application of Article 17(2) of the directive cannot be replaced, pursuant to a collective agreement, by an indemnity determined in accordance with criteria other than those prescribed by Article 17, unless it is established that the application of such an agreement guarantees the commercial agent, in every case, an indemnity equal to or greater than that which results from the application of Article 17.
2. Within the framework prescribed by Article 17(2) of Directive 86/653, the Member States enjoy a margin of discretion which they may exercise, in particular, in relation to the criterion of equity.

(¹) OJ C 31 of 05.02.2005.

Judgment of the Court (First Chamber) of 23 February 2006 (reference for a preliminary ruling from the Bundesfinanzhof) — Finanzamt Offenbach am Main-Land v Keller Holding GmbH

(Case C-471/04) (¹)

(Freedom of establishment — Corporation tax — Right of a parent company to deduct costs relating to its shareholdings — Non-deductible financing costs having an economic link with dividends exempt from tax — Dividends distributed by an indirect subsidiary established in a Member State other than that in which the parent company has its seat)

(2006/C 131/35)

Language of the case: German

Referring court

Bundesfinanzhof

Parties to the main proceedings

Applicant: Finanzamt Offenbach am Main-Land

Defendant: Keller Holding GmbH

Re:

Preliminary ruling — Bundesfinanzhof — Interpretation of Article 52 of the EC Treaty (now, after amendment, Article 43 EC), Article 58 and Article 73b of the EC Treaty (now Article 48EC and 56 EC) — Corporation tax — Non-deductibility of expenditure having a direct economic link to tax-free profits — Expenditure incurred by a parent company established in a Member State linked to its shareholding in a subsidiary established in the same Member State, in connection with dividends distributed by a second-tier subsidiary which are exempted from tax by virtue of the fact that this latter company is established in another Member State

Operative part of the judgment

Article 52 of the EC Treaty (now, after amendment, Article 43 EC) and Article 31 of the Agreement on the European Economic Area of 2 May 1992 must be interpreted as precluding legislation of a Member State which excludes the possibility of deducting for tax purposes financing costs incurred by a parent company subject to unlimited tax liability in that State in order to acquire holdings in a subsidiary where those costs relate to dividends which are exempt from tax because they are derived from an indirect subsidiary established in another Member State or in a State which is party to the Agreement, whereas such costs may be deducted where they relate to dividends paid by an indirect subsidiary established in the same Member State as that of the place of the registered office of the parent company and which, in reality, also benefit from a tax exemption.

(¹) OJ C 19, 22.01.2005.

Judgment of the Court (Second Chamber) of 23 February 2006 (reference for a preliminary ruling from the VAT and Duties Tribunal, Manchester) — Dolland & Aitchison Ltd v Commissioners of Customs & Excise

(Case C-491/04) (¹)

(Community Customs Code — Customs value — Customs import duties — Delivery of goods by a company established in Jersey and supplies of services effected in the United Kingdom)

(2006/C 131/36)

Language of the case: English

Referring court

VAT and Duties Tribunal, Manchester