

Judgment of the Court (Second Chamber) of 18 December 2007 (Reference for a preliminary ruling from the Finanzgericht Hamburg — Germany) — Per Grønfeldt and Tatiana Grønfeldt v Finanzamt Hamburg — Am Tierpark

(Case C-436/06) ⁽¹⁾

(Free movement of capital — Taxation — Income tax — National legislation concerning the taxation of profits made from the sale of shareholdings (shares) in limited companies)

(2008/C 51/36)

Language of the case: German

Referring court

Finanzgericht Hamburg

Parties to the main proceedings

Applicants: Per Grønfeldt and Tatiana Grønfeldt

Defendant: Finanzamt Hamburg — Am Tierpark

Re:

Reference for a preliminary ruling — Finanzgericht Hamburg — Interpretation of Article 56 EC — Tax on the profits made from the sale of shares in limited companies — National legislation making taxation conditional upon a shareholding of at least 10 % if the company concerned is subject to unlimited corporation tax in the Member State, but conditional upon a shareholding of at least 1 % if the company concerned is established in another Member State

Operative part of the judgment

Article 56 EC is to be interpreted as precluding the legislation of a Member State, such as that at issue in the main proceedings, by which the profits from a sale of shares in 2001 in a limited company established in another Member State are immediately taxable where the seller had held, either directly or indirectly, a share of at least 1 % of the company's capital within the previous five years, whereas the profits from the sale of shares in 2001, in the same circumstances, in a limited company established in that first Member State subject to unlimited corporation tax were subject to tax only in the case of a substantial shareholding of at least 10 %.

⁽¹⁾ OJ C 326, 30.12.2006.

Judgment of the Court (Second Chamber) of 13 December 2007 (reference for a preliminary ruling from the Bundesgerichtshof (Germany)) — FBTO Schadeverzekeringen NV v Jack Odenbreit

(Case C-463/06) ⁽¹⁾

(Regulation (EC) No 44/2001 — Jurisdiction in matters relating to insurance — Liability insurance — Action brought by the injured party directly against the insurer — Rule of jurisdiction of the courts for the place where the plaintiff is domiciled)

(2008/C 51/37)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Applicant: FBTO Schadeverzekeringen NV

Defendant: Jack Odenbreit

Re:

Reference for a preliminary ruling — Bundesgerichtshof — Interpretation of Articles 9(1)(b) and 11(2) of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2001 L 12, p. 1) — Legal proceedings against the civil liability insurance provider in the Member State in which the injured party is domiciled — Beneficiary of insurance

Operative part of the judgment

The reference in Article 11(2) of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters to Article 9(1)(b) of that regulation is to be interpreted as meaning that the injured party may bring an action directly against the insurer before the courts for the place in a Member State where that injured party is domiciled, provided that such a direct action is permitted and the insurer is domiciled in a Member State.

⁽¹⁾ OJ C 326, 30.12.2006.