

Operative part of the judgment

The principles of non-discrimination and of equal treatment, set out in Article 2 of the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons, signed in Luxembourg on 21 June 1999, and in Article 9 of Annex I to that agreement, must be interpreted as not precluding a bilateral agreement on double taxation, such as the Agreement of 11 August 1971 between the Swiss Confederation and the Federal Republic of Germany, as amended by the revising Protocol of 12 March 2002, under which the power to tax the employment income of a German taxpayer who does not have Swiss nationality, although he has transferred his residence from Germany to Switzerland, whilst retaining his place of employment in the first of those States, is vested in the State in which that income originates, namely the Federal Republic of Germany, whereas the power to tax the employment income of a Swiss national who is in an analogous situation is vested in the new State of residence, in this case the Swiss Confederation.

⁽¹⁾ OJ C 303, 8.9.2014.

Judgment of the Court (Ninth Chamber) of 19 November 2015 (request for a preliminary ruling from the Hof van beroep te Brussel — Belgium) — SBS Belgium NV v Belgische Vereniging van Auteurs, Componisten en Uitgevers (SABAM)

(Case C-325/14) ⁽¹⁾

(Reference for a preliminary ruling — Directive 2001/29/EC — Article 3(1) — Communication to the public — Definition of ‘communication’ and ‘public’ — Distribution of television programmes — Process known as ‘direct injection’)

(2016/C 016/12)

Language of the case: Dutch

Referring court

Hof van beroep te Brussel

Parties to the main proceedings

Applicant: SBS Belgium NV

Defendant: Belgische Vereniging van Auteurs, Componisten en Uitgevers (SABAM)

Operative part of the judgment

Article 3(1) of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society must be interpreted as meaning that a broadcasting organisation does not carry out an act of communication to the public, within the meaning of that provision, when it transmits its programme-carrying signals exclusively to signal distributors without those signals being accessible to the public during, and as a result of that transmission, those distributors then sending those signals to their respective subscribers so that they may watch those programmes, unless the intervention of the distributors in question is just a technical means, which it is for the national court to ascertain.

⁽¹⁾ OJ C 315, 15.9.2014.