



Reports of Cases

Case C-580/15

Maria Eugenia Van der Weegen and Others
v
Belgische Staat

(Request for a preliminary ruling
from the rechtbank van eerste aanleg West-Vlaanderen, afdeling Brugge)

(Reference for a preliminary ruling — Article 56 TFEU — Article 36 of the Agreement on the European Economic Area — Tax legislation — Income tax — Tax exemption reserved to interest payments by banks complying with certain statutory conditions — Indirect discrimination — Banks established in Belgium and banks established in another Member State)

Summary — Judgment of the Court (Fifth Chamber), 8 June 2017

Freedom to provide services — Restrictions — Tax legislation — Measure applicable without distinction to all services — National legislation limiting a tax exemption to the income of savings deposits held with banking service providers complying with conditions specific to the national market alone — Not permissible

(Art. 56 TFEU; EEA Agreement, Art. 36)

Article 56 TFEU and Article 36 of the Agreement on the European Economic Area of 2 May 1992 must be interpreted as precluding national legislation, such as that at issue in the main proceedings, which provides for a national tax exemption system, to the extent that that system, although applicable without distinction to income from savings deposits held with banking service providers established in Belgium or in another Member State of the European Economic Area, imposes conditions for access to the Belgian banking market on service providers established in other Member States, this being a matter for the referring court to verify.

In the present case, the legislation at issue in the main proceedings establishes a tax system which is applicable without distinction to the remuneration received from a savings deposit paid by banks established in Belgium and to that paid by banks established in another Member State.

However, even national legislation which applies without distinction to all services, irrespective of the place of establishment of the provider, is liable to constitute a restriction on the freedom to provide services in so far as it reserves an advantage solely to users of services which comply with certain conditions which are de facto specific to the national market and thus deny that advantage to users of other services which are essentially similar but do not comply with the specific conditions provided for in that legislation. Such legislation affects the situation of users of services as such and is thus liable to discourage them from using the services of certain providers, since the services offered by them do not comply with the conditions laid down in that legislation, thus directly affecting access to the market

(see, to that effect, judgments of 10 May 1995, *Alpine Investments*, C-384/93, EU:C:1995:126, paragraphs 26 to 28 and 35 to 38, and of 10 November 2011, *Commission v Portugal*, C-212/09, EU:C:2011:717, paragraph 65 and the case-law cited).

(see paras 28, 29, 45, operative part)