

Pleas in law and main arguments

Infringement of freedom of establishment (Articles 43 and 48 EC and Article 31 EEA): the territorial restriction, which consists of the fact that only expenses incurred in respect of R&D and IT activities actually carried out in Spain may benefit from the deduction of the corporation tax allowance, is a factor which restricts the freedom of establishment of Spanish companies which invest in R&D and IT outside Spain, benefiting companies making the same investment in Spain, in particular, undertakings which have their main office in another Member State and which operate in Spain via a secondary establishment.

Infringement of the freedom to provide services (Articles 49 EC and 36 EEA): the costs of R&D and IT activities subcontracted outside Spain are not eligible for the deduction of the corporation tax allowance. That limitation constitutes an obstacle to the freedom to provide services, provided for in the EC Treaty.

Action brought on 2 June 2006 — Commission of the European Communities v Kingdom of Sweden**(Case C-249/06)**

(2006/C 178/43)

*Language of the case: Swedish***Parties**

Applicant: Commission of the European Communities (represented by: C. Tufvesson, B. Martenczuk and H. Stølvbæk, acting as Agents)

Defendant: Kingdom of Sweden

Form of order sought

— Declare that, by failing to take appropriate steps to eliminate the incompatibilities between Sweden's bilateral investment agreement with the Socialist Republic of Vietnam, together with 16 further bilateral investment agreements, and the EC Treaty, the Kingdom of Sweden has failed to fulfil its obligations under the second paragraph of Article 307 EC;

— order the Kingdom of Sweden to pay the costs.

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The agreements are incompatible with Community law since they do not permit the application of Community measures based in Articles 57(2) EC, 59 EC and 60 EC. Further, Sweden has not taken steps to rectify the situation. Thus Sweden has failed to fulfil its obligations under the second paragraph of Article 307 EC to take all appropriate steps to eliminate all incompatibilities between the Treaty and the investment agreements.

Action brought on 6 June 2006 — Commission of the European Communities v Federal Republic of Germany**(Case C-252/06)**

(2006/C 178/44)

*Language of the case: German***Parties**

Applicant: Commission of the European Communities (represented by: G. Braun and N. Yerrell)

Defendant: Federal Republic of Germany

Form of order sought

The applicant claims that the Court should:

— declare that, by failing to adopt the laws, regulations and administrative provisions necessary to implement Directive 2002/92/EC⁽¹⁾ of the European Parliament and of the Council of 9 December 2002 on insurance mediation, or, in any event, by not communicating these provisions to the Commission, the Federal Republic of Germany has failed to fulfil its obligations under that directive;

— Order the Federal Republic of Germany to pay the costs.

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The period for implementing the Directive expired on 15 January 2005.

⁽¹⁾ OJ L 9, 2003, p. 3.