

SUMMARY

ECJ 13 October 2022, case C-593/21 (Herios), Miscellaneous

NY – v – Herios SARL, Belgian law

Summary

The goodwill indemnity which has been paid by the principal to the main agent in respect of the customer base brought by the subagent is capable of constituting, for the main agent, a substantial benefit. However, the payment of a goodwill indemnity to the subagent may be regarded as not being equitable, within the meaning of Article 17(2)(a) of Directive 86/653/EEC, where the subagent continues his or her commercial agency business in relation to the same clients and for the same products but in the context of a direct relationship with the main principal, which replaced the main agent that had previously engaged him or her.

Question

Must Article 17(2)(a), first and second indents, of Directive 86/653/EEC be interpreted as meaning that a goodwill indemnity received by the main agent in respect of the customer base brought by the subagent is capable of constituting, for the main agent, a substantial benefit where that subagent has become the main agent of the principal?

Ruling

Article 17(2)(a) of Directive 86/653/EEC must be interpreted as meaning that the goodwill indemnity which has been paid by the principal to the main agent in respect of the customer base brought by the subagent is capable of constituting, for the main agent, a substantial benefit. However, the payment of a goodwill indemnity to the subagent may be regarded as not being equitable, within the meaning of that provision, where the subagent continues his or her commercial agency business in relation to the same clients and for the same products but in the context of a direct relationship with the main principal, which replaced the main agent that had previously engaged him or her.

Creator: European Court of Justice (ECJ)

Verdict at: 2022-10-13

Case number: C-593/21