

SUMMARY

ECJ 25 April 2024, case C-276/22 (Edit Work 2 en S.T.), Other forms of free movement

Edil Work 2 Sri, S.T. Sri – v – STE Sàri, Italian case

Summary

The fight against tax avoidance and fraud may justify a restriction on the freedom of establishment. In the present case, if the legislation were to be interpreted as requiring the national law to apply systematically to any act of management of a company established in another Member State but carrying on the main part of its activities in that Member State, would amount to introducing a presumption that the conduct of that company constitutes abuse. Such legislation would be disproportionate.

Question

Do Article 49 and 54 TFEU preclude the acts of management of a company in STE's situation from being governed by Italian law, with reference to the fact that that company was incorporated as a company in one Member State, namely the Italian Republic, and then transferred its registered office and was incorporated under the law of another Member State, namely the Grand Duchy of Luxembourg, while maintaining its principal place of business in the first Member State?

Ruling

Article 49 and 54 TFEU must be interpreted as precluding legislation of a Member State which provides generally for its national law to apply to the acts of management of a company established in another Member State but carrying on the main part of its activities in the first Member State.

Creator: European Court of Justice (ECJ)

Verdict at: 2024-04-25

Case number: C-276/22