

SUMMARY

# **ECJ 30 May 2024, case C-627/22 (Finanzamt Köln-Süd), other forms of free movement**

## ***AB – v – Finanzamt Köln-Süd, German case***

### **Summary**

A Member State may not deny an employed person a tax concession on the sole ground that his or her place of residence is in another Member State.

### **Question**

Must Articles 7 and 15 of the AMFP, read in conjunction with Article 9(2) Annex I to the AMFP, be interpreted as precluding legislation of a Member State that reserves to taxpayers who are nationals of that Member State, of another Member State or of a State party to the EEA Agreement and who reside in the territory of one of those States the right to opt for a voluntary assessment procedure in respect of income from employment in order to have expenses such as occupational expenses taken into account and to have the wage tax that has been withheld in the withholding tax procedure offset, which may lead to an income tax refund, and that does not confer such a right of option on, inter alia, a national of the first Member State who resides in Switzerland and who receives income from employment in that Member State?

### **Ruling**

Articles 7 and 15 of the AMFP, read in conjunction with Article 9(2) Annex I to the AMFP, must be interpreted as precluding legislation of a Member State that reserves to taxpayers who are nationals of that Member State, of another Member State or of a State party to the Agreement on the European Economic Area of 2 May 1992 and who reside in the territory of one of those States the right to opt for a voluntary assessment procedure in respect of income

from employment in order to have expenses such as occupational expenses taken into account and to have the wage tax that has been withheld in the withholding tax procedure offset, which may lead to an income tax refund, and that does not confer such a right of option on, inter alia, a national of the first Member State who resides in Switzerland and who receives income from employment in that Member State.

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**Creator:** European Court of Justice (ECJ)

**Verdict at:** 2024-05-30

**Case number:** C-627/22