

**Judgment of the Court (Fourth Chamber) of 16 October 2008 (reference for a preliminary ruling from the High Court of Justice of England and Wales (Chancery Division), United Kingdom) — Canterbury Hockey Club, Canterbury Ladies Hockey Club v The Commissioners for Her Majesty's Revenue and Customs**

(Case C-253/07) <sup>(1)</sup>

**(Sixth VAT Directive — Exemption — Services linked to sport — Services supplied to persons taking part in sport — Services supplied to unincorporated associations and to corporate persons — Included — Conditions)**

(2008/C 313/10)

Language of the case: English

**Referring court**

High Court of Justice of England and Wales (Chancery Division)

**Parties to the main proceedings**

*Applicants:* Canterbury Hockey Club, Canterbury Ladies Hockey Club

*Defendant:* The Commissioners for Her Majesty's Revenue and Customs

**Re:**

Reference for a preliminary ruling — High Court of Justice (Chancery Division) — Interpretation of Article 13A(1)(m) of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (OJ 1977 L 145, p. 1) — Exemption of certain services closely linked to sport or physical education — Meaning of 'persons taking part in sport or physical education' — Scope of persons covered

**Operative part of the judgment**

1. Article 13A(1)(m) of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment is to be interpreted as meaning that, in the context of persons taking part in sport, it includes services supplied to corporate persons and to unincorporated associations, provided that — which it is for the national court to establish — those services are closely linked and essential to sport, that they are supplied by non-profit-making organisations and that their true beneficiaries are persons taking part in sport;

2. The expression 'certain services closely linked to sport', in Article 13A(1)(m) of Sixth Directive 77/388, does not allow the Member States to limit the exemption under that provision by reference to the recipients of the services in question.

<sup>(1)</sup> OJ C 183, 4.8.2007.

**Judgment of the Court (Fourth Chamber) of 16 October 2008 (reference for a preliminary ruling from the Bundesgerichtshof — Germany) — Bundesverband der Verbraucherzentralen und Verbraucherverbände — Verbraucherzentrale Bundesverband eV v deutsche internet versicherung AG**

(Case C-298/07) <sup>(1)</sup>

**(Directive 2000/31/EC — Article 5(1)(c) — Electronic commerce — Internet service provider — Electronic mail)**

(2008/C 313/11)

Language of the case: German

**Referring court**

Bundesgerichtshof

**Parties to the main proceedings**

*Applicant:* Bundesverband der Verbraucherzentralen und Verbraucherverbände — Verbraucherzentrale Bundesverband eV

*Defendant:* deutsche internet versicherung AG

**Re:**

Reference for a preliminary ruling — Bundesgerichtshof — Interpretation of Article 5(1)(c) of Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce') (OJ 2000 L 178, p. 1) — Service provider offering such services exclusively via the internet by indicating on his website only his electronic mail address and providing recipients with a field in which to ask written questions — Whether this service provider also has to provide a telephone number

**Operative part of the judgment**

Article 5(1)(c) of Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the internal market ('Directive on electronic commerce') must be interpreted as meaning that a service provider is required to supply to recipients of the service, before the conclusion of a contract with them, in addition to its electronic mail address, other information which allows the service provider to be contacted rapidly and communicated with in a direct and effective manner. That information does not necessarily have to be a telephone number. That information may be in the form of an electronic enquiry template through which the recipients of the service can contact the service provider via the internet, to whom the service provider replies by electronic mail except in situations where a recipient of the service, who, after contacting the service provider electronically, finds himself without access to the electronic network, requests the latter to provide access to another, non-electronic, means of communication.

(<sup>1</sup>) OJ C 223, 22.9.2007.

**Judgment of the Court (Fourth Chamber) of 16 October 2008 (reference for a preliminary ruling from the Lunds tingsrätt — Sweden) — Svenska staten represented by the Tillsynsmyndigheten i konkurser v Anders Holmqvist**

(Case C-310/07) (<sup>1</sup>)

*(Approximation of laws — Protection of employees in the event of the insolvency of their employer — Directive 80/987/EEC — Article 8a — Activities carried out in a number of Member States)*

(2008/C 313/12)

Language of the case: Swedish

**Referring court**

Lunds tingsrätt

**Parties to the main proceedings**

Applicant: Svenska staten represented by the Tillsynsmyndigheten i konkurser

Defendant: Anders Holmqvist

**Re:**

Reference for a preliminary ruling — Lunds Tingsrätt — Interpretation of Article 8a of Council Directive 80/987/EEC of

20 October 1980 on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer (OJ 1980 L 283, p. 23), as amended by Directive 2002/74/EC of the European Parliament and of the Council of 23 September 2003 (OJ 2002 L 270, p. 10) — Wage guarantee for a worker employed in a road haulage undertaking having its head office and only establishment in a Member State and which carries out deliveries of goods between the Member State of origin and other Member States.

**Operative part of the judgment**

Article 8a of Council Directive 80/987/EEC of 20 October 1980 on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer, as amended by Directive 2002/74/EC of the European Parliament and of the Council of 23 September 2003, must be interpreted as meaning that, in order for an undertaking established in a Member State to be regarded as having activities in the territory of another Member State, that undertaking does not need to have a branch or fixed establishment in that other State. The undertaking must, however, have a stable economic presence in the latter State, featuring human resources which enable it to perform activities there. In the case of a transport undertaking established in a Member State, the mere fact that a worker employed by it in that State delivers goods between that State and another Member State cannot demonstrate that the undertaking has a stable economic presence in another Member State.

(<sup>1</sup>) OJ C 211, 8.9.2007.

**Judgment of the Court (Fourth Chamber) of 16 October 2008 (reference for a preliminary ruling from the Juzgado de lo Mercantil — Barcelona) — Kirtruna SL, Elisa Vígano v Red Elite de Electrodomésticos SA, Cristina Delgado Fernández de Heredia, Sergio Sabini Celio, Miguel Oliván Bascones, Electro Calbet SA**

(Case C-313/07) (<sup>1</sup>)

*(Social policy — Directive 2001/23/EC — Transfer of undertaking — Safeguarding of employees' rights — Insolvency proceedings — Assignment of lease)*

(2008/C 313/13)

Language of the case: Spanish

**Referring court**

Juzgado de lo Mercantil (Barcelona, Spain)