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**Case C-452/04**

**Fidium Finanz AG**

**v**

**Bundesanstalt für Finanzdienstleistungsaufsicht**

(Reference for a preliminary ruling from the

Verwaltungsgericht Frankfurt am Main)

(Freedom to provide services – Free movement of capital – Companies established in non-member countries – Activity entirely or principally directed towards the territory of a Member State – Grant of credit on a commercial basis – Requirement of prior authorisation in the Member State in which the service is provided)

Summary of the Judgment

1. *Freedom to provide services – Free movement of capital – Provisions of the Treaty – Examination of a national measure affecting both freedoms*

*(Arts 49 EC and 56 EC)*

2. *Freedom to provide services – Provisions of the Treaty – Scope*

*(Arts 49 EC and 56 EC)*

1. It is apparent from the wording of Article 49 EC and Article 56 EC, and the position which they occupy in two different chapters of Title III of the Treaty, that, although closely linked, those provisions were designed to regulate different situations and each have their own field of application. Admittedly, it is possible, in certain specific cases in which a national provision concerns both the freedom to provide services and the free movement of capital, that that provision may simultaneously hinder the exercise of both of those freedoms.

However, it cannot be argued that, in such circumstances, the provisions concerning the freedom to provide services apply as an alternative to those which govern the free movement of capital.

Where a national measure relates both to the freedom to provide services and the free movement of capital at the same time, it is necessary to consider to what extent the exercise of those fundamental liberties is affected and whether, in the circumstances of the main proceedings, one of those prevails over the other. The Court will in principle examine the measure in dispute in relation to only one of those two freedoms if it appears, in the circumstances of the case, that one of them is entirely secondary in relation to the other and may be considered together with it.

(see paras 28, 30-31, 34)

2. National rules whereby a Member State makes the granting of credit on a commercial basis, on national territory, by a company established in a non-member country subject to prior

authorisation, and which provide that such authorisation must be refused, in particular, if that company does not have its central administration or a branch in that territory, thereby hindering access to the financial market of a Member State for companies established in non-member States, affect primarily the exercise of the freedom to provide services within the meaning of Articles 49 EC et seq.

Given that the restrictive effects of those rules on the free movement of capital are merely an inevitable consequence of the restriction imposed on the provision of services, it is not necessary to consider whether the rules are compatible with Articles 56 EC et seq.

A company established in a non-member State cannot rely on Article 49 EC et seq. Unlike the chapter of the Treaty concerning the free movement of capital, the chapter regulating the freedom to provide services does not contain any provision which enables service providers in non-member countries and established outside the European Union to rely on those provisions; the objective of the latter chapter is to secure the right to provide services for nationals of Member States.

(see paras 25, 49-50, operative part)

JUDGMENT OF THE COURT (Grand Chamber)

3 October 2006 (*)

(Freedom to provide services – Free movement of capital – Companies established in non-member countries – Activity entirely or principally directed towards the territory of a Member State – Grant of credit on a commercial basis – Requirement of prior authorisation in the Member State in which the service is provided)

In Case C-452/04,

REFERENCE for a preliminary ruling under Article 234 EC from the Verwaltungsgericht Frankfurt am Main (Germany), made by decision of 11 October 2004, received at the Court on 27 October 2004, in the proceedings

**Fidium Finanz AG**

v

**Bundesanstalt für Finanzdienstleistungsaufsicht,**

THE COURT (Grand Chamber),

composed of V. Skouris, President, P. Jann, C.W.A. Timmermans, A. Rosas (Rapporteur) and K. Schiemann, Presidents of Chambers, S. von Bahr, J.N. Cunha Rodrigues, R. Silva de Lapuerta, K. Lenaerts, E. Juhász, G. Arestis, A. Borg Barthet and M. Ileši?, Judges,

Advocate General: C. Stix-Hackl,

Registrar: B. Fülöp, Administrator,

having regard to the written procedure and further to the hearing on 18 January 2006,

after considering the observations submitted on behalf of:

– Fidium Finanz AG, by C. Fassbender and A. Eckhard, Rechtsanwälte, and by N. Petersen, Assessor,

– the Bundesanstalt für Finanzdienstleistungsaufsicht, by S. Ihle, S. Deppmeyer and A. Sahavi, acting as Agents,

– the German Government, by W.-D. Plessing and C. Schulze-Bahr, acting as Agents,

– the Greek Government, by S. Spyropoulos, D. Kalogiros, S. Vodina and Z. Chatzipavlou, acting as Agents,

– Ireland, by D. O'Hagan, acting as Agent, and by M. Collins, SC,

– the Italian Government, by I.M. Braguglia, acting as Agent, and by P. Gentili, avvocato dello Stato,

– the Portuguese Government, by L. Fernandes, L. Máximo dos Santos and Â. Seiça Neves, acting as Agents,

– the Swedish Government, by K. Wistrand, acting as Agent,

– the Commission of the European Communities, by H. Støvlbæk and T. Scharf, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 16 March 2006,

gives the following

**Judgment**

1 The reference for a preliminary ruling concerns the interpretation of Articles 49 EC, 56 EC and 58 EC.

2 This reference was made in the context of an action brought by Fidium Finanz AG ('Fidium Finanz'), a company established in Switzerland, against a decision of the Bundesanstalt für Finanzdienstleistungsaufsicht (Federal Office for the Supervision of Financial Services; 'the Bundesanstalt') by which that authority denied it the right to grant credit, on a commercial basis, to customers established in Germany on the ground that it did not have the authorisation required by German law.

**Legal context**

*Community law*

3 Articles 49 EC to 55 EC govern the freedom to provide services. The first paragraph of Article 49 EC prohibits restrictions on that freedom within the Community in respect of nationals of Member States who are established in a State of the Community other than that of the person for whom the services are intended.

4 Articles 56 EC to 60 EC concern the free movement of capital. Article 56(1) EC provides that, within the framework of the provisions of Chapter 4, in Title III, of the EC Treaty entitled 'Capital and payments', all restrictions on the movement of capital between Member States and between Member States and non-member countries are to be prohibited.

5 Annex I to Council Directive 88/361/EEC of 24 June 1988 for the implementation of Article 67 of the Treaty [article repealed by the Treaty of Amsterdam] (OJ 1988 L 178, p. 5), entitled 'Nomenclature of the capital movements referred to in Article 1 of the Directive', states, in its introduction:

'…

The capital movements listed in this Nomenclature are taken to cover:

– all the operations necessary for the purposes of capital movements: conclusion and performance of the transaction and related transfers. …

…

– operations to repay credit or loans.

This Nomenclature is not an exhaustive list for the notion of capital movements – whence a heading XIII-F, "Other capital movements – Miscellaneous". It should not therefore be interpreted as restricting the scope of the principle of full liberalisation of capital movements as referred to in Article 1 of the Directive.'

6 That nomenclature includes three different categories of capital movements. Included under Heading VIII, entitled 'Financial loans and credits', of that nomenclature are loans and credit granted by non-residents to residents.

*National law*

7 Under Paragraph l(1) of the Law on Credit Institutions (Gesetz über das Kreditwesen), in the version of 9 September 1998 (BGBl. 1998 I, p. 2776; 'the KWG'), 'credit institutions' are 'undertakings which carry on banking activities on a commercial basis or on a scale requiring operation as a business entity', and 'banking activities' are, inter alia, 'the granting of money loans and acceptance credits (lending)'.

8 Paragraph 1(1a) of that law defines 'financial services institutions' as 'undertakings which provide financial services to others commercially or on a scale which requires a commercially organised business undertaking'.

9 The first sentence of Paragraph 32(1) of the KWG provides:

'Any person intending to engage in banking activities or provide financial services in the national territory commercially or on a scale which requires a commercially organised business shall require written authorisation from the Federal Office;

…’

10 Paragraph 33(1)(6) of the KWG states that authorisation is to be refused, in particular, if the institution does not have its central administration in the national territory.

11 Paragraph 53(1) of the KWG provides that if an undertaking domiciled abroad maintains a branch in Germany which conducts banking business or provides financial services, that branch is deemed to be a credit institution or a financial services institution.

12 Paragraph 53b(1) of the KWG provides for special rules applicable to credit institutions established in other Member States of the European Economic Area.

13 According to the circular of the Bundesanstalt of 16 September 2003, there is deemed to be engagement in banking activities or provision of financial services ‘in the national territory’, within the meaning of Paragraph 32 of the KWG, where ‘the provider of the services has his seat or habitual residence abroad and targets the national market in order to repeatedly offer bank transactions or financial services commercially to institutions and/or persons which have their seat or habitual residence in the national territory’.

**The main proceedings and the questions referred for a preliminary ruling**

14 Fidium Finanz is a company incorporated under Swiss law which has its registered office and central administration in St Gallen (Switzerland). It grants credit of EUR 2 500 or EUR 3 500, at an actual rate of annual interest of 13.94%, to clients established abroad.

15 According to the information provided by Fidium Finanz, approximately 90% of the credit which it grants is to persons resident in Germany. The credit at issue was offered, first, to German citizens resident in Germany who met certain criteria. Subsequently, the target group was made up of workers resident in that Member State who met those criteria. For that credit no credit report is obtained beforehand from the Schufa (the German central credit reporting agency).

16 The credit in dispute is offered by an internet site run from Switzerland. On that site customers can download the forms required, fill them out and send them by post to Fidium Finanz. That credit is also offered by means of credit intermediaries operating in Germany. According to the national court, the latter act neither as representatives nor as authorised agents of Fidium Finanz. They conclude contracts on behalf of that company and are paid commission.

17 Fidium Finanz does not have the authorisation provided for in Paragraph 32(1) of the KWG to carry on banking activities and to provide financial services in Germany. For its business in Switzerland, it is subject to the legislation of that country on consumer credit but, according to the information provided by the national court, the requirement under that legislation that authorisation be obtained was not applicable, at the time of the facts in the main proceedings, to Swiss undertakings which grant credit only abroad.

18 Considering that Fidium Finanz was carrying on banking activities ‘in the national territory’ within the meaning of Paragraph 32 of the KWG, as interpreted by the circular of 16 September 2003, the Bundesanstalt informed that undertaking that it was required to obtain authorisation in order to grant credit. Nevertheless, Fidium Finanz submitted that it did not require any authorisation from a German authority for its activity in so far as its activity is not carried out ‘in the national territory’ for the purposes of the KWG, but is rather ‘directed towards’ that territory.

19 By decision of 22 August 2003, the Bundesanstalt, amongst others, prohibited Fidium Finanz from carrying on lending activities on a commercial basis or on a scale requiring operation

as a business entity which target customers established in Germany. Considering that that decision and the subsequent decision of the Bundesanstalt confirming that decision constitute a restriction on the free movement of capital within the meaning of Article 56 EC et seq., Fidium Finanz brought an action before the Verwaltungsgericht Frankfurt am Main.

20 Taking the view that the dispute before it turned on the interpretation of Treaty provisions, the Verwaltungsgericht Frankfurt am Main decided to stay the proceedings and refer the following questions to the Court of Justice for a preliminary ruling:

‘1. Can an undertaking having its registered office in a country outside the European Union, in this case Switzerland, rely on the free movement of capital under Article 56 EC in respect of the commercial grant of credit to residents of a Member State of the European Union, in this case the Federal Republic of Germany, as against that Member State and the measures taken by its authorities or courts, or are the preparation, provision and performance of such financial services covered solely by the freedom to provide services under Article 49 et seq. EC?

2. Can an undertaking having its registered office in a country outside the European Union rely on the free movement of capital under Article 56 EC where it grants loans commercially or predominantly to residents domiciled within the European Union and has its registered office in a country in which it is not subject, in relation to the taking up and conduct of that business activity, to the requirement of prior authorisation by a State authority of that country or the requirement of regular supervision of its business activity in a manner which is customary in respect of credit institutions within the European Union, and in this particular case within the Federal Republic of Germany, or does reliance on free movement of capital in such a case constitute misuse of the law?

Can such an undertaking be treated, in relation to the law of the European Union, in the same way as persons and undertakings established in the territory of the relevant Member State as regards the obligation to obtain authorisation even though it does not have its registered office in that Member State and also does not maintain a branch there?

3. Do rules which make the commercial grant of credit by an undertaking having its registered office in a country outside the European Union to residents within the European Union subject to authorisation being obtained beforehand from an authority of the relevant Member State of the European Union in which the borrower is domiciled interfere with the free movement of capital under Article 56 EC?

In this respect is it relevant whether the unauthorised commercial grant of credit constitutes a criminal offence or merely an administrative one?

4. Is the prior authorisation requirement referred to in Question 3 justified by Article 58(1)(b) EC, in particular as regards

– protecting borrowers from contractual and financial obligations towards persons whose reliability has not been checked beforehand,

– protecting this category of persons from undertakings or persons operating improperly with regard to their bookkeeping and their obligation under general rules to provide customers with advice and information,

– protecting this category of persons from inappropriate or improper advertising,

– ensuring that the lending undertaking has adequate financial resources,

– protecting the capital market from the unmonitored grant of large-scale credit, and

– protecting the capital market and society as a whole from criminal practices as covered in particular by the provisions on combating money laundering and terrorism?

5. Does Article 58(1)(b) EC cover the formulation of an authorisation requirement permissible per se under Community law – in the sense of Question 3 – to obtain which it is mandatory for the undertaking to have its central administration or at least a branch in the Member State concerned to be granted authorisation, in particular in order to

– enable business processes and transactions to be genuinely and effectively monitored, that is to say even with little or no notice, by the bodies of the Member State concerned,

– render business processes and transactions fully traceable by means of the documents available or to be submitted in the Member State,

– have access to those personally responsible for the undertaking in the territory of the Member State, and

– ensure, or at least facilitate, payment of the claims of the undertaking's customers within the Member State?'

21 At the oral hearing, Fidium Finanz's adviser informed the Court that, in March 2005, the competent authorities of the Canton of St Gallen gave that company authorisation to grant consumer credit.

**The questions**

*Preliminary remarks*

22 By its question, the national court wishes to know whether granting credit on a commercial basis constitutes a provision of services and is covered by Article 49 EC et seq. and/or whether it falls within the scope of Article 56 EC et seq. governing the free movement of capital. Should those provisions be applicable in the circumstances of the main case it asks whether they preclude national rules, such as those in dispute in the main proceedings, which make the pursuit of that activity, on national territory, by a company established in a non-member country subject to prior authorisation, and which provide that such authorisation must be refused, in particular, if that company does not have its central administration or a branch in that territory ('the rules in dispute').

23 At the outset, it needs to be made clear that the rules in dispute apply to companies established outside the European Economic Area. Credit institutions established in Member states of the European Economic Area are subject, pursuant to Paragraph 53b(1) of the KWG, to special rules, which are not at issue in the questions referred.

24 As is apparent from paragraphs 14 and 15 of the present judgment, Fidium Finanz, established in Switzerland, grants credit on a commercial basis to persons resident in Germany.

25 Contrary to the chapter of the Treaty concerning the free movement of capital, the chapter regulating the freedom to provide services does not contain any provision which enables service providers in non-member countries and established outside the European Union to rely on those

provisions. As the Court found in its Opinion of 15 November 1994, Opinion 1/94 [1994] ECR I-5267, paragraph 81, the objective of the latter chapter is to secure the right to provide services for nationals of Member States. Therefore, Article 49 EC et seq. cannot be relied on by a company established in a non-member country.

26 In addition, at the time of the facts in the main proceedings, the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons (OJ 2002 L 114, p. 6), signed in Luxembourg on 21 June 1999, to facilitate the provision of services in the territory of the Contracting Parties, had not yet entered into force.

27 Thus, the question arises as to the delimitation of and the relationship between, first, the Treaty provisions concerning the freedom to provide services and, second, those governing the free movement of capital.

28 In that regard, it is apparent from the wording of Article 49 EC and Article 56 EC, and the position which they occupy in two different chapters of Title III of the Treaty, that, although closely linked, those provisions were designed to regulate different situations and they each have their own field of application.

29 That is confirmed, in particular, by Article 51(2) EC, which distinguishes between banking and insurance services connected with movements of capital and the free movement of capital, and which provides that the free movement of those services must be achieved ‘in step with the liberalisation of movement of capital’.

30 Admittedly, it is possible, in certain specific cases in which a national provision concerns both the freedom to provide services and the free movement of capital, that that provision may simultaneously hinder the exercise of both of those freedoms.

31 It has been argued before the Court that, in such circumstances and in the light of the wording of the first paragraph of Article 50 EC, the provisions concerning the freedom to provide services apply as an alternative to those which govern the free movement of capital.

32 That argument cannot be accepted. Although in the definition of the notion of ‘services’ laid down in the first paragraph of Article 50 EC it is specified that the services ‘are not governed by the provisions relating to freedom of movement for goods, capital and persons’, that relates to the definition of that notion and does not establish any order of priority between the freedom to provide services and the other fundamental freedoms. The notion of ‘services’ covers services which are not governed by other freedoms, in order to ensure that all economic activity falls within the scope of the fundamental freedoms.

33 The existence of such an order of priority can also not be inferred from Article 51(2) EC. That provision is primarily addressed to the Community legislature and is explained by the fact that the freedom to provide services and the free movement of capital may progress at different rates.

34 Where a national measure relates to the freedom to provide services and the free movement of capital at the same time, it is necessary to consider to what extent the exercise of those fundamental liberties is affected and whether, in the circumstances of the main proceedings, one of those prevails over the other (see by analogy Case C-71/02 *Karner* [2004] ECR I-3025, paragraph 47; Case C?36/02 *Omega* [2004] ECR I-9609, paragraph 27; and the judgment of the EFTA Court in Case E-1/00 *State Management Debt Agency/Islandsbanki-FBA* [2000] EFTA Court Report 2000-2001, p. 8, paragraph 32). The Court will in principle examine the measure in dispute in relation to only one of those two freedoms if it appears, in the circumstances of the case, that

one of them is entirely secondary in relation to the other and may be considered together with it (see by analogy Case C-275/92 *Schindler* [1994] ECR I-1039, paragraph 22; Case C-390/99 *Canal Satélite Digital* [2002] ECR I-607, paragraph 31; *Karner*, paragraph 46; *Omega*, paragraph 26; and Case C-20/03 *Burmanjer and Others* [2005] ECR I-4133, paragraph 35).

35 It is in the light of those considerations that the questions referred should be answered.

*The first question*

36 By its first question the national court asks whether a company established in a non-member country may, in the context of granting credit on a commercial basis to residents of a Member State, rely on the free movement of capital laid down in Article 56 EC, or whether the preparation, provision and performance of such financial services are covered solely by the freedom to provide services laid down in Article 49 EC et seq.

37 The Bundesanstalt, the German and Greek Governments, Ireland, and the Italian and Portuguese Governments consider that the grant of credit on a commercial basis constitutes a service within the meaning of the first paragraph of Article 50 EC and that Article 56 EC et seq. are not applicable in the circumstances of the main case. The Commission of the European Communities and Fidium Finanz contend that the activity in question falls within the free movement of capital and that that company may rely on Article 56 EC.

38 It must be determined, first, into which category of the fundamental freedoms the activity of granting credit on a commercial basis, such as that pursued by Fidium Finanz, falls.

39 It is settled case-law that the business of a credit institution consisting of granting credit constitutes a service within the meaning of Article 49 EC (see, to that effect, Case C-484/93 *Svensson and Gustavsson* [1995] ECR I-3955, paragraph 11, and Case C-222/95 *Parodi* [1997] ECR I-3899, paragraph 17). In addition, Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to the taking up and pursuit of the business of credit institutions (OJ 2000 L 126, p. 1) seeks to regulate the activity of granting loans, inter alia, from the point of view of both the freedom of establishment and the freedom to provide financial services.

40 Although Fidium Finanz is not a credit institution within the meaning of Community law in so far as its activity does not entail the receiving of deposits or other repayable funds from the public, the activity of granting credit on a commercial basis constitutes a provision of services.

41 As regards the notion of ‘capital movements’, there is no definition thereof in the Treaty. It is, however, settled case-law that, inasmuch as Article 56 EC essentially reproduces the contents of Article 1 of Directive 88/361, and even though that directive was adopted on the basis of Articles 69 and 70(1) of the EEC Treaty, (Articles 67 to 73 of the EEC Treaty have been replaced by Articles 73b to 73g of the EC Treaty, now Articles 56 EC to 60 EC), the nomenclature in respect of ‘movements of capital’ annexed to that directive still has the same indicative value, for the purposes of defining the notion of capital movements (see to that effect, inter alia, Case C-222/97 *Trummer and Mayer* [1999] ECR I-1661, paragraph 21; Joined Cases C-515/99, C-519/99 to C-524/99 and C-526/99 to C?540/99 *Reisch and Others* [2002] ECR I-2157, paragraph 30; and Case C?513/03 *Van Hilten-van der Heijden* [2006] ECR I-1957, paragraph 39).

42 Loans and credits granted by non-residents to residents feature under Heading VIII of Annex I to Directive 88/361, entitled ‘Financial loans and credits’. According to the explanatory notes of that annex, that category includes consumer credit, inter alia.

43 It follows that the activity of granting credit on a commercial basis concerns, in principle,

both the freedom to provide services within the meaning of Article 49 EC et seq. and the free movement of capital within the meaning of Article 56 EC et seq.

44 It is therefore necessary to consider whether, and if necessary to what extent, the rules in dispute affect the exercise of those two freedoms in the circumstances of the main case and whether they are capable of hindering them.

45 It is apparent from the documents before the Court that the rules in dispute form part of the German legislation on the supervision of undertakings which carry out banking transactions and offer financial services. The purpose of those rules is to supervise the provision of such services and to authorise such provision only for undertakings which guarantee to conduct such transactions properly. Once the operator's access to the national market has been authorised, the preparation with a view to the loan made and the loan contract signed, that contract is carried out and the amount of the credit is actually transferred to the borrower.

46 The rules in dispute prevent economic operators which do not have the qualities required by the KWG from having access to the German financial market. It is settled case-law that all measures which prohibit, impede or render less attractive the exercise of the freedom to provide services must be regarded as restrictions of that freedom (see, in particular, Case C-439/99 *Commission* v *Italy* [2002] ECR I?305, paragraph 22). If the requirement of authorisation constitutes a restriction on the freedom to provide services, the requirement of a permanent establishment is the very negation of that freedom. For such a requirement to be accepted, it must be shown that it constitutes a condition which is indispensable for attaining the objective pursued (see, inter alia, *Parodi*, paragraph 31, and *Commission* v *Italy*, paragraph 30).

47 In the light of the considerations set out in paragraph 25 of the present judgment, Article 49 EC et seq. cannot be relied on by a company, such as Fidium Finanz, which is established in a non-member country.

48 As regards the free movement of capital within the meaning of Article 56 EC et seq., it is possible that by making financial services offered by companies which are established outside the European Economic Area less accessible for clients established in Germany, the rules effectively make those clients less inclined to have recourse to those services and, therefore, reduce cross-border financial traffic relating to those services. However, that is merely an unavoidable consequence of the restriction on the freedom to provide services (see to that effect *Omega*, paragraph 27, and Case C-196/04 *Cadbury Schweppes and Cadbury Schweppes Overseas* [2006] ECR I?0000, paragraph 33, see also by analogy Case C-204/90 *Bachmann* [1992] ECR I-249, paragraph 34).

49 It is apparent that, in the circumstances of the main case, the predominant consideration is freedom to provide services rather than the free movement of capital. Since the rules in dispute impede access to the German financial market for companies established in non-member countries, they affect primarily the freedom to provide services. Given that the restrictive effects of those rules on the free movement of capital are merely an inevitable consequence of the restriction imposed on the provision of services, it is not necessary to consider whether the rules are compatible with Article 56 EC et seq.

50 In the light of the above, the answer to the first question referred must be that national rules whereby a Member State makes the granting of credit on a commercial basis, on national territory, by a company established in a non-member country subject to prior authorisation, and which provide that such authorisation must be refused, in particular, if that company does not have its central administration or a branch in that territory, affect primarily the exercise of the freedom to provide services within the meaning of Article 49 EC et seq. A company established in a non-

member country cannot rely on those provisions.

51 In the light of the reply to the first question, there is no need to answer the other questions referred by the national court.

**Costs**

52 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court hereby rules:

**National rules whereby a Member State makes the granting of credit on a commercial basis, on national territory, by a company established in a non-member country subject to prior authorisation, and which provide that such authorisation must be refused, in particular, if that company does not have its central administration or a branch in that territory, affect primarily the exercise of the freedom to provide services within the meaning of Article 49 EC et seq. A company established in a non-member country cannot rely on those provisions.**

[Signatures]

* Language of the case: German.