

**Questions referred**

1. Must the prohibition on direct discrimination on grounds of ethnic origin in Article 2(2)(a) of Council Directive 2000/43/EC <sup>(1)</sup> of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin be interpreted as precluding a practice such as the one in the present case, by which persons in an equivalent situation who are born outside the Nordic countries, a Member State, Switzerland and Liechtenstein are treated less favourably than persons born in the Nordic countries, a Member State, Switzerland and Liechtenstein?
2. If the first question is answered in the negative: does such a practice thus give rise to indirect discrimination on grounds of ethnic origin within the meaning of Article 2(2)(b) of Council Directive 2000/43/EC — unless it is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary?
3. If the second question is answered in the affirmative, can such a practice in principle be justified as an appropriate and necessary means for safeguarding the enhanced customer due diligence measures provided for in Article 13 of Directive 2005/60/EC <sup>(2)</sup> of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing?

<sup>(1)</sup> OJ 2000 L 180, p. 22.

<sup>(2)</sup> OJ 2005 L 309, p. 15.

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**Action brought on 17 December 2015 — European Commission v Council of the European Union**

(Case C-687/15)

(2016/C 068/32)

*Language of the case: English*

**Parties**

*Applicant:* European Commission (represented by: F. Erlbacher, L. Nicolae, agents)

*Defendant:* Council of the European Union

**The applicant claims that the Court should:**

- annul the Council Conclusions on the World Radiocommunication Conference 2015 (WRC-15) of the International Telecommunication Union (ITU) adopted on 26 October 2015 at the 3419th meeting of the Council in Luxembourg;
- order the Council to bear the costs.

**Pleas in law and main arguments**

1. By way of the present application the Commission seeks the annulment of the ‘Council Conclusions on the World Radiocommunication Conference 2015 (WRC-15) of the International Telecommunication Union (ITU)’ adopted on 26 October 2015 at the 3419th meeting of the Council in Luxembourg.
2. The Application is founded on a single plea in law namely that in adopting the Conclusions on the World Radiocommunication Conference 2015 (WRC-15) of the International Telecommunication Union (ITU) instead of a Decision as proposed by the Commission, the Council has violated Article 218(9) TFEU which applies to the adoption of the position to be taken on behalf of the Union at the WRC-15.
3. In this regard, the Commission argues, first, that Article 218 (9) TFEU applies to positions to be adopted on the Union’s behalf in a situation as the one at hand where the European Union has a status in the international organisation concerned, namely that of a Sector member which, in accordance with Article 3(2) of the ITU Constitution, provides the European Union certain rights of activities in the organisation.

4. Second, the Commission argues that the revisions of the Radio Regulations for which the Commission has proposed the adoption of a position to be taken in accordance with Article 218(9) TFEU produce legal effects in the sense of that provision both under the applicable international legal framework and under the relevant Union rules.
  5. Third, as regards the other conditions for the application of Article 218(9) TFEU, the Commission argues that these are equally fulfilled in the present case as the organs of ITU are bodies 'set up by an agreement' and that the acts in relation to which the Commission has proposed the adoption of a position to be taken do not '[supplement] or [amend] the institutional framework of the agreement'.
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