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(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Judgment of the Court (Fourth Chamber) of 31 January 2008 (reference for a preliminary ruling from the Consiglio di Stato (Italy) — Centro Europa 7 Srl v Ministero delle Comunicazioni e Autorità per le Garanzie nelle Comunicazioni, Direzione Generale Autorizzazioni e Concessioni Ministero delle Comunicazioni)

(Case C-380/05) ⁽¹⁾

(Freedom to provide services — Electronic communications — Television broadcasting activities — New common regulatory framework — Allocation of radio frequencies)

(2008/C 79/02)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Applicant: Centro Europa 7 Srl

Defendants: Ministero delle Comunicazioni e Autorità per le Garanzie nelle Comunicazioni, Direzione Generale Autorizzazioni e Concessioni Ministero delle Comunicazioni

Re:

Reference for a preliminary ruling — Consiglio di Stato — Interpretation of Directive 2002/20/EC of the European Parliament

and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive) (OJ 2002 L 108, p. 21) and Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) (OJ 2002 L 108, p. 33) — Interpretation of Article 10 of the European Convention on Human Rights — Obligation on Member States, in the sector of television broadcasting activities, to ensure access to networks and maintain multiplicity of undertakings on the market — National regulations allowing the grant of individual rights to undertakings not authorised under the national plan determining the licensees of television broadcasting services and not allowing an undertaking authorised under the national plan to carry on its activities

Operative part of the judgment

Article 49 EC and, from the date on which they became applicable, Article 9(1) of Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive), Article 5(1), the second subparagraph of Article 5(2) and Article 7(3) of Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive), and Article 4 of Commission Directive 2002/77/EC of 16 September 2002 on competition in the markets for electronic communications networks and services must be interpreted as precluding, in television broadcasting matters, national legislation the application of which makes it impossible for an operator holding rights to broadcast in the absence of broadcasting radio frequencies granted on the basis of objective, transparent, non-discriminatory and proportionate criteria.

⁽¹⁾ OJ C 10, 14.1.2006.