

Joined Cases C-244/10 and C-245/10

Mesopotamia Broadcast A/S METV and Roj TV A/S

v

Bundesrepublik Deutschland

(Reference for a preliminary
ruling from the Bundesverwaltungsgericht)

(Directive 89/552/EEC — Television broadcasting activities — Possibility for a Member State to prohibit on its territory the activities of a television broadcaster established in another Member State — Ground based on infringement of the principles of international understanding)

Opinion of Advocate General Bot delivered on 5 May 2011 I - 8779

Judgment of the Court (Third Chamber), 22 September 2011 I - 8797

Summary of the Judgment

Freedom to provide services — Television broadcasting activities — Directive 89/552 — Monitoring of compliance with the provisions of the directive — Monitoring to be carried out by the Member State from which the broadcast emanates — Exceptions — Incitement to hatred on grounds of race, sex, religion or nationality — Concept — Infringement of the principle of international understanding — Included

(Council Directive 89/552, as amended by European Parliament and Council Directive 97/36, Art. 22a)

Article 22a of Directive 89/552 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities, as amended by Directive 97/36, must be interpreted as meaning that facts covered by a rule of national law prohibiting infringement of the principles of international understanding, must be regarded as being included in the concept of ‘incitement to hatred on grounds of race, sex, religion or nationality’.

broadcaster established in another Member State, pursuant to a general law such as a law on associations, on the ground that the activities and objectives of that broadcaster run counter to the prohibition of the infringement of the principles of international understanding, provided that those measures do not prevent retransmission per se on the territory of the receiving Member State of television broadcasts made by that broadcaster from another Member State, this being a matter to be determined by the national court.

That article does not preclude a Member State from adopting measures against a

(see paras 46, 54, operative part)