

Parties to the main proceedings

Applicant: UPC DTH S.à.r.l.

Defendant: Nemzeti Média- és Hírközlési Hatóság Elnöke

Questions referred

1. May Article 2(c) of the Framework Directive, that is to say, Directive 2002/21/EC ⁽¹⁾ of the European Parliament and of the Council of 7 March 2002, as amended by Directive 2009/140/EC ⁽²⁾ of the European Parliament and of the Council of 25 November 2009, be interpreted as meaning that a service by which a service provider supplies, for consideration, conditional access to a package of programmes which contains radio and television broadcast services and is retransmitted by satellite is to be classified as an electronic communications service?
2. May the Treaty on the Functioning of the European Union be interpreted as meaning that the principle of the free movement of services is applicable to the service described in the first question, in the case of a service supplied from Luxembourg to Hungary?
3. May the Treaty on the Functioning of the European Union be interpreted as meaning that, in the case of the service described in the first question, the country of destination, to which the service is sent, is entitled to limit the supply of that type of services by requiring that the [supplier of the] service has to be registered in that Member State and has to be established as a branch or independent legal entity, and allowing this type of services to be supplied only through the establishment of a branch or independent legal entity?
4. May the Treaty on the Functioning of the European Union be interpreted as meaning that administrative proceedings relating to the services described in the first question, regardless of the Member State in which the undertaking supplying that service operates or is registered, will be subject to the administrative authority of the Member State which has jurisdiction on the basis of the place in which the service is supplied?
5. May Article 2(c) of Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 (Framework Directive) be interpreted as meaning that the service described in the first question must be classified as an electronic communications service, or must such a service be classified as a conditional access service supplied using the conditional access system defined in Article 2(f) of the Framework Directive?

6. On the basis of all the foregoing, may the relevant provisions be interpreted as meaning that the service provider described in the first question must be classified as a provider of electronic communications services pursuant to European Community law?

⁽¹⁾ 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).

⁽²⁾ Directive 2009/140/EC of the European Parliament and of the Council of 25 November 2009 amending Directives 2002/21/EC on a common regulatory framework for electronic communications networks and services, 2002/19/EC on access to, and interconnection of, electronic communications networks and associated facilities, and 2002/20/EC on the authorisation of electronic communications networks and services (Text with EEA relevance) (OJ 2009 L 337, p. 37).

Request for a preliminary ruling from the Verwaltungsgerichtshof (Austria) lodged on 6 November 2013 — Karoline Gruber

(Case C-570/13)

(2014/C 24/09)

Language of the case: German

Referring court

Verwaltungsgerichtshof

Parties to the main proceedings

Applicant: Karoline Gruber

Defendant: Unabhängiger Verwaltungssenat für Kärnten

Mitbeteiligte Partei: EMA Beratungs- und Handels GmbH

Weitere Partei: Bundesminister für Wirtschaft, Familie und Jugend

Questions referred

1. Does European Union law, in particular Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (Directive 2011/92), ⁽¹⁾ in particular Article 11 thereof, preclude a provision of national law under which a decision finding that a particular project does not require an environmental impact assessment is also binding

on neighbours who did not have the status of parties in the previous proceedings for a declaratory decision and can be relied on as against them in subsequent development consent proceedings even though they have the opportunity to raise their objections to the project in those consent proceedings (the objection in the main proceedings being that the effects of the project will pose a risk to the appellant's life, health or property or represent an unreasonable nuisance to her in the form of smell, noise, smoke, dust, vibration or otherwise)?

If Question 1 is answered in the affirmative:

- Does European Union law, in particular Directive 2011/92, if applied directly, require that the binding effect referred to in Question 1 be invalidated?

(¹) OJ 2012 L 26, p. 1.

Request for a preliminary ruling from the Bundesgerichtshof (Germany) lodged on 7 November 2013 — Annegret Weitkämper-Krug v NRW Bank, an institution governed by public-law

(Case C-571/13)

(2014/C 24/10)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Applicant: Annegret Weitkämper-Krug

Defendant: NRW Bank, an institution governed by public-law

Question referred

- Is Article 27(1) of Council Regulation (EC) No 44/2001 (¹) of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2001 L 12, p. 1) to be interpreted as meaning that the court other than the court first seised, which has exclusive jurisdiction pursuant to Article 22 of Regulation 44/2001, must nevertheless stay its proceedings until such time as the jurisdiction of the court first seised, which does not have exclusive jurisdiction pursuant to Article 22 of Regulation No 44/2001, is definitively established?

(¹) Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2001 L 12, p. 1).

Request for a preliminary ruling from the Cour d'appel de Bruxelles (Belgium) lodged on 8 November 2013 — Hewlett-Packard Belgium SPRL v Reprobel SCRL

(Case C-572/13)

(2014/C 24/11)

Language of the case: French

Referring court

Cour d'appel de Bruxelles

Parties to the main proceedings

Applicant: Hewlett-Packard Belgium SPRL

Defendant: Reprobel SCRL

Questions referred

- Must the term 'fair compensation' contained in Article 5(2)(a) and Article 5(2)(b) of Directive 2001/29 (¹) be interpreted differently depending on whether the reproduction on paper or a similar medium effected by the use of any kind of photographic technique or by some other process having similar effects is carried out by any user or by a natural person for private use and for ends that are neither directly nor indirectly commercial? If the answer is in the affirmative, on what criteria must that difference of interpretation be based?
- Must Article 5(2)(a) and Article 5(2)(b) of Directive 2001/29 be interpreted as authorising the Member States to fix the fair compensation payable to rightholders in the form of:
 - a lump-sum remunerative payment made by the manufacturer, importer or intra-Community acquirer of devices enabling protected works to be copied, at the time when such devices are put into circulation on national territory, the amount of which is calculated solely by reference to the speed at which the copier is capable of producing a number of copies per minute, without being otherwise linked to any harm suffered by rightholders;
 - and,
 - a proportional remunerative payment, determined solely by means of a unit price multiplied by the number of copies produced, which varies depending on whether or not the person liable for payment has cooperated in the collection of that remuneration, which is payable by natural or legal persons making copies of works or, as the case may be, in lieu of those persons, by those who, for consideration or free of charge, make a reproduction device available to others.

If the reply to this question is in the negative, what are the relevant and consistent criteria that the Member States must apply in order to ensure that, in accordance with European Union law, the compensation may be regarded as fair and that a fair balance is maintained between the persons concerned?