

Parties to the main proceedings

Appellant: SBS Belgium NV

Respondent: Belgische Vereniging van Auteurs, Componisten en Uitgevers (SABAM)

Question referred

Does a broadcasting organisation which transmits its programmes exclusively via the technique of direct injection — that is to say, a two-step process in which it transmits its programme-carrying signals in an encrypted form via satellite, a fibre-optic connection or another means of transmission to distributors (satellite, cable or xDSL-line), without the signals being accessible to the public during or as a result of that transmission, and in which the distributors then send the signals to their subscribers so that the latter may view the programmes — make a communication to the public within the meaning of Article 3 of Directive 2001/29/EC ⁽¹⁾ of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society?

⁽¹⁾ OJ 2001 L 167, p. 10.

Request for a preliminary ruling from the Amtsgericht Rüsselsheim (Germany) lodged on 14 July 2014 — Elvira Mandl, Helmut Mandl v Condor Flugdienst GmbH

(Case C-337/14)

(2014/C 315/68)

Language of the case: German

Referring court

Amtsgericht Rüsselsheim

Parties to the main proceedings

Applicants: Elvira Mandl, Helmut Mandl

Defendant: Condor Flugdienst GmbH

Question referred

Is there an obligation on an airline company which wishes to rely on the possibility of exemption in Article 5(3) of Regulation No 261/2004 ⁽¹⁾ to set out and prove that it took all reasonable measures to avoid the foreseeable consequences of an extraordinary circumstance in the form of cancellation or considerable delay or that no such reasonable measures were available to it?

⁽¹⁾ Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 — Commission Statement (OJ 2004 L 46, p. 1).

Action brought on 22 July 2014 — Republic of Poland v European Parliament and Council of the European Union

(Case C-358/14)

(2014/C 315/69)

Language of the case: Polish

Parties

Applicant: Republic of Poland (represented by: B. Majczyna)

Defendants: European Parliament, Council of the European Union

Form of order sought

The applicant claims the Court should:

- declare invalid Article 2.25, Article 6(2)(b), Article 7(1) to (5), (7), first sentence, and (12) to (14), and Article 13(1)(c) of Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC; ⁽¹⁾
- order the European Parliament and the Council of the European Union to pay the costs.

Pleas in law and main arguments

The Republic of Poland submits in its action that the contested provisions contain complex and novel rules set out for the first time in Directive 2014/40/EU, the objective of which is, by means of the establishment of a prohibition of the marketing of tobacco products with characterising flavours and through the fixing of measures accompanying that prohibition, to exclude entirely such products, including menthol cigarettes, from the internal market. In view of the share held by menthol cigarettes in the European Union market for tobacco products, that prohibition brings with it very serious repercussions for the manufacture of menthol cigarettes.

The Republic of Poland raises the following objections to the contested provisions:

First: breach of Article 114 TFEU. The prohibition of the marketing of menthol cigarettes was introduced even though there are no discrepancies between national legal provisions which could restrict the movement of goods. This prohibition does not contribute to improving the functioning of the internal market but, on the contrary, results in the creation of obstacles which did not exist before the directive was adopted.

Second: infringement of the principle of proportionality. The prohibition of the marketing of menthol cigarettes is not an appropriate means for attaining the objectives pursued by the directive. Furthermore, this prohibition runs counter to the requirement that measures taken must be necessary for attaining the objectives pursued. The costs involved in introducing the prohibition exceed by far any potential advantages.

Third: infringement of the principle of subsidiarity. The prohibition of the marketing of menthol cigarettes runs counter to the principle of subsidiarity, in that the issue of menthol cigarette consumption, in regard to both the influence on public health and the potential social and economic costs of the prohibition of their sale, has a local character which is confined to a narrow group of Member States. For that reason, this issue has to be resolved at national level, and exclusively in those Member States in which there is a high level of consumption and manufacture of those products.

⁽¹⁾ OJ 2014 L 127, p. 1.

Appeal brought on 24 July 2014 by the Federal Republic of Germany against the judgment delivered on 14 May 2014 in Case T-198/12 Federal Republic of Germany v European Commission

(Case C-360/14P)

(2014/C 315/70)

Language of the case: German

Parties

Appellant: Federal Republic of Germany (represented by: T. Henze, A. Lippstreu, acting as Agents, U. Karpenstein, lawyer)

Other party to the proceedings: European Commission