

Court of Justice of the European Communities: Annulment of the Tobacco Advertising Directive

IRIS 2000-9:1/5

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By judgement of 5 October 2000, the Court of Justice of the European Communities annulled Directive 98/43/EC on the advertising and sponsorship of tobacco products. The Directive, adopted pursuant to Articles 100A and 57 of the EC Treaty (now Articles 95 and 47) laid down a general prohibition of advertising and sponsorship relating to those products. It was aimed at eliminating obstacles to the functioning of the internal market deriving from barriers to the movement of products and the freedom to provide services and distortions of competition resulting from differences in the national rules.

Following the Opinion of Advocate General Fennelly (IRIS 2000-8: 3), the Court held that the Community legislature had no power to adopt the Directive on the basis of the Treaty provisions relating to the establishment of the internal market and freedom to provide services. According to the Court, the total ban of advertising of tobacco products was not justified on the basis of the powers attributed to the Community, whereas a partial prohibition on certain forms of advertising and sponsorship of the same products (i.e., in sports events or in the distribution of magazines and newspapers) would have been justified, given the clear impact of these national rules on the functioning of the internal market.

Judgment of 5 October 2000, case C-376/98, Federal Republic of Germany v. European Parliament and Council of the European Union

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:61998CJ0376:EN:PDF>

