Court of First Instance: Admissibility of National Restrictions on the Free Movement of Television Services

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Article 2 of the "Television without Frontiers" Directive (89/552/EEC) permits Member States to restrict the provision of broadcasting services from the territory of another Member State only in case of transmissions which manifestly, seriously and gravely infringe the rules relating to, inter alia, the protection of minors (Article 22). The measures adopted are notified to the Commission of the European Communities, whose task is to verify within two months whether the measures are compatible with Community law.

On 22 December 1998, the Commission adopted a decision confirming some restrictive measures adopted by the UK against Danish TV, a Danish company whose programmes, which are received also in the UK, were considered by the British authorities to be in breach of Article 22 of the Directive. The action for annulment, which was brought by the broadcasting company against the decision before the Court of First Instance in Luxembourg, was dismissed on 13 December 2000. According to the Court, the application was inadmissible since the applicant could not be considered as directly concerned by the Commission act, which was directed against the United Kingdom and did not directly affect the legal situation of the company. The Court held that the Commission decision was limited merely to pronouncing ex post facto on the compatibility of the UK measure with Community law, whereas the Order adopted by the UK authorities existed in law independently of the contested act. In these circumstances, the companies concerned must seek judicial protection before the national courts, where they can challenge the validity of the national measures restricting the retransmissions of television broadcasting services.

Court of First Instance of the European Communities, judgement of 13 December 2000, case T-69/99, Danish Satellite TV v. Commission of the European Communities

http://www.curia.eu.int/jurisp/cgi-bin/gettext.pl?lang=en&num=79998786T19990069&doc=T&ouvert=T&seance=ARRET&where=()

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