Court of First Instance: Judgment on the UK List of Events of Major Importance

IRIS 2006-2:1/4

Roberto Mastroianni
RTS Radio Télévision Suisse, Geneva

On 15 December 2005, the Court of First Instance delivered its judgment in the case Infront WM AG v. Commission of the European Communities. The dispute concerned the legality of the Commission's letter holding the measures adopted by the UK Government in accordance with Art. 3a of the Television without Frontiers Directive to be compatible with Community law.

Art. 3a of the Directive provides that each Member State may take measures to ensure that television broadcasters in its territory do not broadcast exclusively events of major importance for society in such a manner as to deprive a substantial proportion of its public of the possibility of following them on free-to-air television. Member States are required to notify any such measures to the Commission, which publishes them in the Official Journal of the European Union if it considers them compatible with Community law.

On 5 May 2000, in compliance with these rules, the United Kingdom notified a set of measures to the Commission relating to television coverage of events of major importance in that country, including the football World Cup finals. With a letter signed by one of its Director-Generals, the Commission declared that it had no objections to the measures notified and therefore proceeded to publish them.

The Commission's decision was challenged by Kirch Media AG (now Infront AG). Kirch Media had concluded a contract with the International Federation of Football Association (FIFA), according to which it had acquired exclusive broadcasting rights for the 2002 and 2006 football World Cup finals for a large number of European countries. Kirch Media brought an action before the Court of First Instance challenging the legality of the Commission's letter finding that the measures notified were compatible with Community law.

In its judgment of 15 December 2005, the Court first dismissed the objections of inadmissibility of the action for annulment raised by the Commission, according to which the letter was not a decision open to such an action and that Infront cannot seek its annulment. The Court, however, found that the letter has binding legal effects and is therefore a decision which is open to challenge. As for the requirements imposed by Article 230, para. 4, of the EC Treaty regarding the actions for annulment of Community acts brought by private parties, the Court

© European Audiovisual Observatory (Council of Europe) 2026

found that Infront is directly concerned by the contested decision inasmuch as it enables the mechanism of mutual recognition to be implemented. Secondly, it ruled that Infront, as holder of exclusive television broadcasting rights for an event included in the list of measures notified by the United Kingdom and having acquired those rights prior to the adoption of the measures applicable in the United Kingdom and, a fortiori, prior to their approval by the Commission, must be considered to be individually concerned by the contested decision.

On the substance of the action for annulment, the Court ruled in favour of the plaintiff and therefore annuls the Commission's decision. The Court accepted one of the four pleas in support of the action, according to which the contested letter was not adopted in conformity with the Commission's rules on collegiate procedure, delegation and enforcement of decisions, thereby violating an essential procedural requirement. In short, the Court noted that, as the Commission itself had admitted, the College of Commissioners had not been consulted and that the Director-General who signed that decision had received no specific power from the College. Therefore, the author of the contested act lacked the necessary competence.

Decision of 15 December 2005, case T-33/01, Infront WM AG v. Commission of the European Communities

http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62001TJ0033:EN:PDF

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026