Court of Justice of the European Union: Appeals from UEFA and FIFA Rejected

IRIS 2013-8:1/6

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On 18 July 2013, the Grand Chamber of the Court of Justice of the European Union (CJEU) dismissed the appeals made by the Union des associations européennes de football (UEFA) and the Federation internationale de football association (FIFA) to set aside the judgment of the General Court of the European Union in the case T-55/08 UEFA v. Commission [2011] and the case T-385/07 FIFA v. Commission [2011] (see IRIS 2011-3/3). The Grand Chamber upheld the decisions of the General Court and the European Commission regarding the compatibility with Community law of measures taken by the UK and Belgium on the basis of Article 3a(1) of the Television without Frontiers Directive (TWFD).

Article 3a(1) TWFD (now replaced by Article 14 of the Audiovisual Media Services Directive) allows member states to draw up lists of events which, because of their major importance for society, are prohibited from being broadcast on an exclusive basis in such a way as to deprive a substantial proportion of the public in that member state of the possibility of following such events by live coverage or deferred coverage on free television. FIFA and UEFA disagreed with the inclusion of all final stage matches of the World Cup and the EURO, arguing that not all of those matches could be considered to be of major importance to the general public in the UK and Belgium.

The CJEU dismissed the appeals in their entirety. In an argument similar to that issued by the General Court, the Grand Chamber observed that Article 3a(1) TVWFD creates obstacles to important rights and freedoms, the right to property and the freedom of competition being among those rights. The Grand Chamber however confirmed that these obstacles are justified by the right to information and ensuring wide public access to free television coverage of important events. The CJEU further observed that member states have a significant margin of discretion in determining which events are considered to be of major importance to society, while the Commission's role in that regard is limited.

To a certain degree, the Court agreed with the argument put forward by FIFA and UEFA, i.e. that the World Cup and the EURO must indeed be regarded as events which are divisible into different matches or stages, not all of which are necessarily capable of being characterised as events of major importance to the general public of a given member state. Thus, member states must explain why these tournaments are regarded as being of major importance to society in their

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entirety. Nevertheless, the Grand Chamber agreed with the General Court in its finding that all matches in the final stages of the World Cup and the EURO championships attract sufficient attention to constitute events of major importance.

Judgment of the Court of Justice of the European Union, Grand Chamber, case C-201/11, 23 August 2013

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Judgment of the Court of Justice of the European Union, Grand Chamber, case C-204/11, 23 August 2013

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Judgment of the Court of Justice of the European Union, Grand Chamber, case C-205/11, 23 August 2013

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