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Judgment in Case E-21/13 *Fédération Internationale de Football Association (FIFA) v EFTA Surveillance Authority*

FIFA WORLD CUP FINAL STAGE CAN BE BROADCAST LIVE ON FREE-TO-AIR TELEVISION

In 2013, the Norwegian Government drew up a list of the events it regarded as being of major importance for society pursuant to Directive 2010/13/EU concerning the provision of audiovisual media services. The Directive authorises EEA States to prohibit the exclusive broadcasting of such events, where such broadcasts would deprive a substantial proportion of the public of the possibility of following those events on free television. The list, which contained, *inter alia*, all the matches in the final stage of the World Cup, was subsequently submitted to the EFTA Surveillance Authority (“ESA”) which decided that it was compatible with EEA law.

Fédération internationale de football association (“FIFA”), which is the organiser and the sole original rights’ holder of the football World Cup, challenged ESA’s decision before the EFTA Court, arguing that it was not sufficiently reasoned and breached EEA law in so far as it approved the designation of the entire World Cup as an event of major importance for Norwegian society. FIFA argued in particular that the matches other than the final, the two semi-finals and all matches of the national team in the final stage of the World Cup (“the non-prime matches”) did not qualify for such inclusion.

In a judgment delivered today, the Court dismissed the application brought by FIFA. The Court observed that the EEA States have a broad discretion when determining the events which are of major importance, and that ESA’s role in that respect is limited to determining whether a State has complied with EEA law in exercising its discretion. Thus, if an event has validly been designated by an EEA State as being of major importance, ESA is required to examine only the effects of that designation on the freedoms and rights recognised under EEA law which exceed those which are intrinsically linked to such a designation.

The Court approved ESA’s findings that all the matches in the final stage of the World Cup have special general resonance, have traditionally been broadcast on free television channels and commanded large television audiences in Norway, and that they therefore in their entirety could be regarded as an event of major importance for Norwegian society. According to the Court, the restrictions linked to this designation correspond to objectives in the public interest and do not constitute a disproportionate and intolerable interference, impairing the substance of the rights guaranteed under EEA law. The Court thus found no manifest error on the part of ESA such as to suggest that ESA should have rejected the measures notified by Norway.

Finally, the Court found that, given ESA’s limited power of review of the designation by an EEA State of an event as being of major importance and the in-depth knowledge of broadcasters of the context in which ESA’s decision is adopted, the statement of reasons in ESA’s decision must be considered as sufficient.

In those circumstances, the Court dismissed the application brought by FIFA in its entirety.

The full text of the judgment may be found on the Internet at: www.eftacourt.int.

This press release is an unofficial document and is not binding upon the Court.