



Court of Justice of the European Union

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Press and Information

UPC DTH Sàrl v Nemzeti Média- és Hírközlési Hatóság Elnökhelyettese

Judgment in Case C-475/12

Member States can monitor whether companies which supply electronic communications services in their territory, but are established in another Member State, are complying with consumer protection rules

On the other hand, they cannot compel such companies to create branches or subsidiaries in their territory

UPC is a Luxembourg company which supplies, from Luxembourg, for consideration, packages of radio and audio-visual broadcast services that can be received by satellite, subject to conditional access. These services are supplied to subscribers in other Member States, including Hungary.

Following complaints by subscribers, the Hungarian authorities asked UPC to provide them with information concerning its contractual relationship with one of its customers. However, UPC refused to provide that information on the ground that, since its registered office was in Luxembourg, the Hungarian authorities did not have the power to initiate surveillance proceedings against it. Since they had not received the information requested, the Hungarian authorities imposed a fine on UPC. UPC brought legal proceedings to challenge the fine, and the Fővárosi Törvényszék (Budapest Municipal Court, Hungary) wishes to know, in essence, whether the Hungarian authorities are empowered by EU law to monitor UPC's business in Hungary.

In its judgment today, the Court of Justice states that the service supplied by UPC is an 'electronic communications service'. The Court notes in that regard that the Authorisation Directive¹ enables Member States to require registration of commencement of the supply of such a service in their territory. Likewise, the directive authorises a Member State in whose territory the recipients of the service are resident to make its provision subject to certain conditions specific to the electronic communications sector.

Accordingly, **national authorities may request from undertakings information required for verification of compliance with conditions relating to consumer protection** where a complaint has been received or in the case of an investigation by the national authority on its own initiative. In that context, **a Member State may initiate surveillance proceedings in relation to the activity in its territory of an electronic communications service provider which is established in another Member State of the EU.**

On the other hand, **Member States may not require such providers to create a branch or a subsidiary in their territory**, as such an obligation would be contrary to the freedom to provide services.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

¹ Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (OJ 2002 L 108 p. 21), as amended by Directive 2009/140/EC of the European Parliament and of the Council of 25 November 2009 (OJ 2009 L 337, p. 37).

Unofficial document for media use, not binding on the Court of Justice.

The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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