



Court of Justice of the European Union

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Judgment in Case C-753/18

Föreningen Svenska Tonsättares Internationella Musikbyrå u.p.a. (Stim) and Svenska artisters och musikers intresseorganisation ek. för. (SAMI) v Fleetmanager Sweden AB and Nordisk Biluthyrning AB

Press and Information

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## **The hiring out of motor vehicles equipped with radio receivers does not constitute a communication to the public subject to payment of royalties**

Föreningen Svenska Tonsättares Internationella Musikbyrå u.p.a. ('Stim') is the Swedish organisation which collectively manages copyright in music and Svenska artisters och musikers intresseorganisation ek. för. ('SAMI') is the Swedish organisation managing the related rights of performers. The companies Fleetmanager Sweden AB ('Fleetmanager') and Nordisk Biluthyrning AB ('NB') are motor vehicle rental companies established in Sweden. They offer, directly or through intermediaries, hired vehicles equipped with radio receivers, in particular for periods not exceeding 29 days, which is regarded under national law as a short-term hire.

Stim claimed that Fleetmanager, by making available to motor vehicle rental companies vehicles fitted with radio receivers for short-term hires to private clients, contributed to the copyright infringements committed by those companies, who have made musical works available to the public without being authorised to do so. Stim therefore brought an action against Fleetmanager for a finding of those infringements.

In the dispute between SAMI and NB, NB brought an action before the Patent- och marknadsdomstolen (Patents and Market Court, Sweden) seeking a declaration that NB was not required, on the basis of the sole fact that the vehicles which it hires to individuals and entrepreneurs are equipped with radio receivers and CD readers, to pay fees to SAMI for the use of sound recordings.

The Högsta domstolen (Supreme Court, Sweden), before which both appeals were brought, decided to ask the Court of Justice to determine, in essences, whether the hiring out of motor vehicles equipped with radio receivers constitutes a communication to the public within the meaning of Directives 2001/29<sup>1</sup> and 2006/115<sup>2</sup> on copyright.

Referring to recital 27 of Directive 2001/29, in accordance with which 'the mere provision of physical facilities for enabling or making a communication does not in itself amount to communication within the meaning of this directive', the Court of Justice, in its judgment delivered today, held that it is the case of the supply of a radio receiver forming an integral part of a hired motor vehicle, which makes it possible to receive, without any additional intervention by the leasing company, the terrestrial radio broadcasts available in the area in which the vehicle is located. That therefore differs from acts of communication by which service providers intentionally broadcast protected works to their clientele, by distributing a signal by means of receivers that they have installed in their establishment.

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<sup>1</sup> Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society (OJ 2001 L 167, p. 10).

<sup>2</sup> Directive 2006/115/EC of the European Parliament and of the Council of 12 December 2006 on rental right and lending right and on certain rights related to copyright in the field of intellectual property (OJ 2006 L 376, p. 28).

The Court therefore concludes therefrom that, **by making available to the public vehicles equipped with radio receivers, vehicle rental companies are not carrying out an ‘act of communication’ to the public of protected works.** In the view of the Court, therefore, there is no need to examine whether such making available must be regarded as a communication to a ‘public’.

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**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 EU 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.

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

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