



## PRESS RELEASE No 60/26

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Judgment of the Court in Case C-155/24 | Nederlandse Voedsel- en Warenautoriteit and Others

### **Harmful substances emitted by filter cigarettes: if an EU directive designed to protect human health refers to international standards, individuals must be able to consult them**

A Dutch foundation that campaigns to prevent smoking among young people is of the view that filter cigarettes offered to consumers in the Netherlands do not comply with the maximum emission levels for tar, nicotine and carbon monoxide. Those levels are established in an EU directive which refers to measurement methods laid down in international standards (ISO). The standards have not been published in the *Official Journal of the European Union*. In its judgment, the Court of Justice confirms that the foundation must be able to verify whether cigarettes comply with the emission levels, in the light of the measurement methods prescribed by the ISO standards referred to in the directive. Such access must be free, that is to say, it must be general, effective, without charge and non-discriminatory. The Court notes in that regard that all parties in fact had access to the content of the official and authentic version of those ISO standards. Accordingly, the foundation cannot rely on measurement methods other than those prescribed by the ISO standards, even though those standards have not been published in the *Official Journal of the European Union*, in order to have filter cigarettes withdrawn from the market.

In 2018, the Dutch Youth Smoking Prevention Foundation requested the Netherlands Food and Consumer Product Safety Authority (NVWA) to ensure that filter cigarettes in the Netherlands complied with the maximum emission levels for tar, nicotine and carbon monoxide. Those levels are established in an EU directive. <sup>1</sup>

As the NVWA refused that request, the matter was brought before the Dutch courts. In 2020, Rotterdam District Court referred questions to the Court of Justice for a preliminary ruling on some of the provisions of the directive. The Court replied to those questions by judgment of 22 February 2022. <sup>2</sup>

Following that judgment, Rotterdam District Court ruled that the ISO standards referred to in Netherlands law are not enforceable against the foundation and that the method for measuring emission levels described in those standards is not consistent with the directive. Although the EU legislature made reference to that method, the method does not take sufficient account of the fact that part of the cigarette filter is obstructed by the smoker when the cigarette is consumed as intended. An appeal was brought against that judgment of Rotterdam District Court, in the course of which further questions were referred to the Court for a preliminary ruling. The referring court enquires, in particular, whether such an outcome is justified where the individual seeking to check that cigarettes placed on the market comply with the applicable standards has had access to the ISO standards at issue.

In its judgment, the Court confirms that the foundation – the purpose of which appears to fall within the scope of the objective of protecting human health pursued by the directive – must be able to verify whether cigarettes manufactured and placed on the market comply with the emission levels established by the directive, in the light of the measurement methods prescribed by the ISO standards referred to in that directive. **Such an individual must therefore, in compliance with the principle of the rule of law, have free access to those standards. This means that such access must be general, effective, without charge and non-discriminatory.**

The Court also finds that, in so far as the EU legislature imposes obligations in relation to international standards and seeks to protect interests such as human health, **it is for the European Union to bear the costs associated with creating free access to the official and authentic version of those standards. This applies in particular where those standards are protected by intellectual property rights.**

The Court notes in that regard that all parties had access to the content of the official and authentic version of the ISO standards referred to in the directive at issue in the present case. In such circumstances, the foundation cannot rely on measurement methods other than those prescribed by those ISO standards, even though those standards have not been published in the *Official Journal of the European Union*.

**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.

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The [full text and, as the case may be, an abstract](#) of the judgment is published on the CURIA website on the day of delivery.

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<sup>1</sup> [Directive 2014/40/EU](#) of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC.

<sup>2</sup> Judgment of 22 February 2022, [C-160/20](#), *Stichting Rookpreventie Jeugd and Others* (also see press release No [29/22](#)).