



Press and Information

General Court of the European Union

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Judgments in Cases T-385/07, T-55/08 and T-68/08  
FIFA and UEFA v Commission

**A Member State may, in certain circumstances, prohibit the exclusive broadcast of all World Cup and EURO football matches on pay television, in order to allow the general public to follow those events on free television**

*When those competitions are, in their entirety, of major importance for society, the restriction on freedom to provide services and freedom of establishment is justified by the right to information and by the need to ensure wide public access to television broadcasts of those events*

The directive on the pursuit of television broadcasting activities<sup>1</sup> allows Member States to prohibit the exclusive broadcasting of events they judge to be of major importance for society where such broadcasting would deprive a substantial proportion of the public of the possibility of following those events on free television.

The Fédération Internationale de Football Association (FIFA) organises the football World Cup finals ('the World Cup'), whilst the Union des associations européennes de football (UEFA) organises the European Football Championship finals ('the EURO'). The sale of the television broadcasting rights for those competitions constitutes a major source of their income.

Belgium and the United Kingdom each drew up a list of events they considered to be of major importance for their respective societies. Those lists contained, inter alia, in the case of Belgium, all matches of the World Cup and, in the case of the United Kingdom, all matches of the World Cup and the EURO. Those lists were sent to the Commission, which found that they were compatible with European Union law.

FIFA and UEFA challenged those decisions before the General Court, however, disputing that all such matches can be regarded as events of major importance for the public of those States.

In its judgments delivered today, the Court examines, first of all, certain features of the organisation of the World Cup and the EURO and their impact on television broadcasts of those competitions. Next, it looks at the legal rules in place in the European Union and the Member States relating to the broadcasting of those sporting events. Lastly, the Court examines the issue whether limitations may be placed on FIFA's and UEFA's television broadcasting rights for the World Cup and the EURO due to overriding reasons in the public interest.

The Court finds that the reference to the World Cup and the EURO in recital 18 in the preamble to Directive 97/36 means that, when a Member State includes matches from those competitions in the list it has decided to draw up, it does not need to include in its notification to the Commission specific grounds concerning their nature as an event of major importance for society. However, any finding by the Commission that the inclusion of the entire World Cup or EURO in a list of events of major importance for the society of a Member State is compatible with European Union law, on the ground that those competitions are, by their nature, regarded as single events, may be called into question on the basis of specific factors showing that the 'non-prime' matches of the World Cup

<sup>1</sup> Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities (OJ 1989 L 298, p. 23), as amended by Directive 97/36/EC of the European Parliament and of the Council of 30 June 1997 (OJ 1997 L 202, p. 60).

and/or 'non-gala' matches of the EURO<sup>2</sup> are not of such importance for the society of that Member State.

In that context, the Court states that the 'prime' and 'gala' matches and, in the case of the EURO, matches involving a relevant national team are accepted to be of major importance for the public of a given Member State and may, therefore, be included in a national list specifying the events to which the public should be able to have access on free television.

As regards the other matches of the World Cup and the EURO, the Court holds first that those competitions may be regarded as **single events** rather than as a series of individual events divided into 'prime' and 'non-prime' matches or into 'gala' and 'non-gala' matches. Thus, the participation of the teams in 'prime' and 'gala' matches may depend on the results of 'non-prime' and 'non-gala' matches, which may therefore generate a particular interest for the public to follow those matches.

In that regard, the Court also observes that it cannot be specified in advance – at the time when the national lists are drawn up or broadcasting rights acquired – which matches will actually be decisive for the subsequent stages of those competitions or which ones may affect the fate of a given national team. For that reason, the Court holds that the fact that certain 'non-prime' or 'non-gala' matches may affect whether a team advances to the 'prime' or 'gala' matches may justify a Member State's decision to consider that all of the matches of those competitions are of major importance for society.

Regarding the statistics relied on by the applicants in order to show that the 'non-prime' and/or 'non-gala' matches are not of major importance for Belgian or United Kingdom society, the Court finds that the viewing figures relating to those categories of matches from the most recent World Cup and EURO tournaments show that **they have in fact drawn large numbers of viewers, a significant proportion of whom are not usually interested in football.**

Next, the Court holds that, in the absence of harmonisation in the European Union of specific events which Member States may consider to be of major importance for society, a number of different approaches concerning the inclusion of the World Cup and EURO matches in a national list may be equally compatible with the directive. It is therefore possible that certain Member States may consider that only 'prime' and 'gala' matches and, in the case of the EURO, matches involving the relevant national team(s) are of major importance for society, whilst others may legitimately consider that 'non-prime' and 'non-gala' matches should also be included in the national list.

The Court further holds that, although the categorisation of the World Cup and the EURO as events of major importance for society is liable to affect the price which FIFA and UEFA will obtain for the grant of the rights to broadcast those competitions, this does not destroy the commercial value of those rights because it does not oblige FIFA and UEFA to sell them on whatever conditions they can obtain. Similarly, although such a categorisation restricts freedom to provide services and freedom of establishment, that restriction may be justified, since it is intended to protect the right to information and to ensure wide public access to television broadcasts of events of major importance for society.

Lastly, the Court observes that the United Kingdom legislation does not grant special or exclusive rights to certain broadcasters.

In those circumstances, **the Court holds that the Commission did not err in finding that the United Kingdom's categorisation of all World Cup and EURO matches and Belgium's categorisation of all World Cup matches as 'events of major importance' for their societies are compatible with European Union law. Consequently, FIFA's and UEFA's actions are dismissed.**

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<sup>2</sup> 'Prime' matches of the World Cup include, in particular, the semi-finals, the final and the matches involving the relevant national team(s) of the country in question. 'Gala' matches of the EURO include, in particular, the opening match and the final. Other matches are considered to be 'non-prime' and 'non-gala' matches respectively.

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**NOTE:** An appeal, limited to points of law only, may be brought before the Court of Justice against the decision of the General Court within two months of notification of the decision.

**NOTE:** An action for annulment seeks the annulment of acts of the institutions of the European Union that are contrary to European Union law. The Member States, the European institutions and individuals may, under certain conditions, bring an action for annulment before the Court of Justice or the General Court. If the action is well founded, the act is annulled. The institution concerned must fill any legal vacuum created by the annulment of the act.

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