

**Parties to the main proceedings**

*Applicant:* Admiral Casinos & Entertainment AG

*Defendants:* Balmatic Handelsgesellschaft mbH, Robert Schnitzer, Suayip Polat KG, Ülkü Polat, Attila Juhas, Milazim Rexha

**Operative part of the judgment**

Article 56 TFEU must be interpreted as meaning that a review of the proportionality of restrictive national legislation in the area of games of chance must be based not only on the objective of that legislation at the time of its adoption, but also on the effects of the legislation, assessed after its adoption.

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<sup>(1)</sup> OJ C 398, 30.11.2015.

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**Judgment of the Court (Second Chamber) of 7 July 2016 (request for a preliminary ruling from the Nejvyšší soud České republiky — Czech Republic) — Tommy Hilfiger Licensing LLC and Others v Delta Center a.s.**

(Case C-494/15) <sup>(1)</sup>

*(Reference for a preliminary ruling — Approximation of laws — Directive 2004/48/EC — Enforcement of intellectual property rights — Notion of ‘intermediary whose services are being used by a third party to infringe an intellectual property right’ — Tenant of market halls subletting sales points — Possibility of an injunction against that tenant — Article 11)*

(2016/C 335/35)

Language of the case: Czech

**Referring court**

Nejvyšší soud České republiky

**Parties to the main proceedings**

*Applicants:* Tommy Hilfiger Licensing LLC, Urban Trends Trading BV, Rado Uhren AG, Facton Kft., Lacoste SA, Burberry Ltd

*Defendant:* Delta Center a.s.

**Operative part of the judgment**

1. The third sentence of Article 11 of Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights must be interpreted as meaning that the tenant of market halls who sublets the various sales points situated in those halls to market-traders, some of whom use their pitches in order to sell counterfeit branded products, falls within the concept of ‘an intermediary whose services are being used by a third party to infringe an intellectual property right’ within the meaning of that provision.
2. The third sentence of Article 11 of Directive 2004/48 must be interpreted as meaning that the conditions for an injunction within the meaning of that provision against an intermediary who provides a service relating to the letting of sales points in market halls are identical to those for injunctions which may be addressed to intermediaries in an online marketplace, set out by the Court in the judgment of 12 July 2011 in *L’Oréal and Others* (C-324/09, EU:C:2011:474).

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<sup>(1)</sup> OJ C 414, 14.12.2015.