

Case C-376/98 Germany v Parliament and Council [2000] ECR I-08419

Facts: Germany challenged the legitimacy of the European Directive that banned advertising and sponsorship tobacco products. Germany argued that Parliament and Council were wrong to enact the Directive on the basis of Article 114 TFEU. They argued that Art 114 could only be used to promote, not limit, trade.

Held: The Court, to the surprise of many, accepted the argument and annulled, for the first time, European legislation. They stated that: ‘...a measure adopted on the basis of [Art 114]... must genuinely have as its object *the improvement of the conditions for the establishment and functioning of the internal market.*’ [84; emphasis added]. The Court decided that the Directive, thus, must be annulled as it went beyond the Union’s competence. The Court then created three constitutional limits to Article 114: 1) EU law must harmonise national laws, 2) A simple disparity in national laws is not enough to trigger Union competence; they must give rise to obstacles in trade or significant enough distortions in the law, 3) EU legislation must actually contribute to the elimination of obstacles to free movement.