

Case C-84/94 United Kingdom v Council [1996]

Facts: The United Kingdom brought an action for the annulment of a Directive concerning weekly working time, paid annual leave and rest periods, adopted on the basis of Article 118a, alleging, among other reasons, that the legal base of the directive was defective.

Held: The applicant contends that Article 118a must be regarded as an exception to Article 100 and strictly interpreted, and the Directive should have been adopted on the basis of the later. However, the delimitation of their fields of application rests upon the aim of the measure envisaged. Article 100a(1) states that it is to apply “save where otherwise provided in this Treaty”. Article 118a forms part of Title VIII of the Treaty, which deals with “Social Policy”, and it is therefore a more specific rule which confers on the Community internal legislative competence in this area. The applicant argues that Article 118a permits the adoption of directives which have a genuine and objective link to the “health and safety” of workers, and the Directive measures have a too tenuous connection with it. However, nothing in Article 118a indicates that these concepts have to be interpreted restrictively. The applicant argues that no scientific evidence justifies the imposition of these general requirements, but Community legislative action in this field cannot be limited to circumstances where the justification is scientifically demonstrated. However, the Council failed to explain why Sunday is more closely connected as a rest day with health and safety than any other day of the week, and this Article must be annulled. The applicant does not rely upon infringement of the principle of subsidiarity as a separate plea, but it maintains that it does not allow adoption of a directive in such wide and prescriptive terms, given that the legislative regulation of working time varies widely between Member States. However, it is the responsibility of the Council, under Article 118a, to adopt minimum requirements to contribute to achieving the objective of raising the level of health and safety protection of workers which, in terms of Article 118a(1), is primarily the responsibility of the Member States. Once the Council has found that it is necessary to improve the existing level of protection and to harmonize the conditions, achievement of that objective through the imposition of minimum requirements necessarily presupposes Community-wide action. The applicant bases its argument on a wrong interpretation of “minimum requirements” in Article 118a. That provision does not limit Community action to the lowest common denominator or to the lowest level of protection established by the various Member States, but means that Member States are free to provide a level of protection more stringent than that resulting from Community law.