



Press and Information

Court of Justice of the European Union

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Judgment in Case C-515/19

Eutelsat SA v Autorité de régulation des communications électroniques et des postes and Inmarsat Ventures SE

Internet connection service on board aircraft: a mobile satellite system which is principally based, in terms of capacity of transmitted data, on complementary ground components which are installed so as to cover the entire territory of the European Union is not necessarily incompatible with the European legislative framework

The increased use of ground components is possible provided that there is no distortion of competition and the satellite component of the system has real and specific usefulness

In order to facilitate the development of a competitive internal market for mobile satellite services across the European Union and to ensure gradual coverage in all Member States, the European Parliament and the Council adopted Decision No 626/2008 ('the MSS decision').¹ At the end of a selection procedure for operators of pan-European systems providing mobile satellite services,² the European Commission selected, among others, the Inmarsat Ventures SE company ('Inmarsat'). That company has developed a system called the 'European Aviation Network', which is designed to provide aviation connectivity services. By decision of 21 October 2014, the Autorité de régulation des communications électroniques et des postes (Authority for the Regulation of Electronic Communications and Postal Services, France) granted Inmarsat authorisation to use specific frequencies in metropolitan France and, by decision of 22 February 2018, granted it authorisation to operate complementary ground components ('CGCs')³ of mobile satellite systems. Eutelsat, a competitor of Inmarsat, accordingly brought an action before the Conseil d'État (Council of State, France) seeking annulment of that latter decision on the ground, inter alia, of an infringement of EU law.

Ruling on a request for a preliminary ruling from the Conseil d'État, the Court of Justice, in its judgment, provides an interpretation of 'mobile satellite systems' and of the concepts of 'CGC' and 'mobile earth station'⁴ in the light of the MSS decision. In addition, the Court provides clarification concerning the powers of the competent authorities of the Member States to grant, or to refuse to grant, to an operator the authorisations necessary for the provision of the components of mobile satellite systems.

The Court's assessment

The Court notes, first of all, that a mobile satellite system does **not necessarily** have to be principally based, in terms of capacity of transmitted data, on the satellite component of that system. The relevant provisions of the MSS decision do not define, in terms of capacity of transmitted data, the relationship between the satellite component of a mobile satellite system, on the one hand, and the ground component of that system, on the other. Furthermore, it is not possible to draw any conclusion from the use of the word 'complementary' in the term

¹ Article 2(2)(a) and (b) and Article 8(1) and (3) of Decision No 626/2008/EC of the European Parliament and of the Council of 30 June 2008 on the selection and authorisation of systems providing mobile satellite services (MSS) (OJ 2008 L 172, p. 15, 'the MSS decision').

² Article 2(2)(a) and (b) of the MSS decision, read in conjunction with Article 8(1) and (3) of that decision.

³ Article 2(2)(b) of the MSS decision, read in conjunction with Article 8(1) and (3) of that decision.

⁴ Article 2(2)(a) of the MSS decision.

'complementary ground components', since that word is silent on the relative importance of the two components.

Next, the Court states that a ground-based station may be classified as a 'CGC of mobile satellite systems' when two main requirements are fulfilled. In terms of positioning, that station must be used at a fixed location and cover a geographical area within the footprint of the satellite or satellites of the mobile satellite system concerned. In addition, in terms of function, the ground-based station must be used to improve the availability of the mobile satellite service in areas where communications with the satellite component of that system cannot be ensured with the required quality. Where those requirements have been satisfied and the other common conditions⁵ have been fulfilled, no limitation as to the number of CGCs that can be used or the extent of their geographical coverage may be inferred from the provisions of the MSS decision.⁶ In that regard, the concept of 'required quality' must be understood as being the **level of quality necessary to provide the service offered** by the operator of that system and must be read with reference to the objective of promoting innovation, technological progress and consumer interests.

However, the operation of CGCs **must not result in competition being distorted** on the market concerned and the satellite component of the mobile satellite system must have **real and specific usefulness**, in that such a component must be **necessary for the functioning of that system**, save where there is independent operation of the CGCs, in the case of failure of the satellite component, which must not exceed 18 months. It is for the **competent national authorities** to oversee compliance with those conditions.

Lastly, according to the Court, in order to fall within the concept of 'mobile earth station', there is **no requirement** that such a station is capable of communicating, without the use of separate equipment, with both a CGC and a satellite. In that regard, after noting a number of requirements that have to be satisfied, the Court finds that those requirements are met by a **combination of two separate reception terminals linked by a communication driver**, the first terminal being located above the aircraft fuselage and communicating with a space station, and the second located below that fuselage and communicating with CGCs. The Court states that it is irrelevant, in that context, that the individual components do not form a physically indivisible whole.

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](#) of the judgment is published on the CURIA website on the day of delivery.

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⁵ Article 8(3) of the MSS decision.

⁶ In particular, Article 2(2)(b) of the MSS decision.