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Judgment of the Court in Case C-653/21 | Syndicat Uniclima

### **Fire safety in establishments open to the public: Member States may not impose additional requirements on pressure equipment bearing the CE marking for the purposes of making that equipment available on the national market**

By an order adopted in 2019, the French Minister for the Interior amended a 1980 order on safety against the risks of fire and panic in establishments open to the public, to allow, subject to certain safety requirements, the use, in those establishments, of equipment using flammable refrigerants, such as refrigerators, freezers or air conditioners.

The order at issue makes the use of equipment using flammable refrigerants, in those establishments, subject to compliance with a certain number of requirements. However, it provides that equipment with the CE marking is not subject to those requirements, provided that that equipment is hermetically sealed.

Syndicat Uniclima (an association representing the thermal, aeraulic and refrigeration industries, which, *inter alia*, assists and represents undertakings before French, European and international authorities on regulatory and normative matters) brought an action before the Conseil d'État (Council of State, France).

It argues that the condition established by the contested order, requiring that the equipment be hermetically sealed, constitutes a requirement additional to those laid down by three directives,<sup>1</sup> even though equipment with the CE marking is in conformity with the requirements of those directives. It submits that the contested order creates distortions of competition since it requires economic operators to modify their products solely for the purposes of making them available on the French market.

The Conseil d'État (Council of State, France) has referred questions to the Court of Justice in this regard.

In its judgment, the Court responds that **EU law precludes national legislation which, in order to protect the health and safety of persons against risks of fire in premises open to the public, imposes on pressure equipment using flammable refrigerants requirements which do not appear among the essential safety requirements laid down by the directives at issue**, for the purposes of the making available on the market or the putting into service of such equipment, **even though that equipment bears the CE marking**.

It notes that the '**CE marking**' allows the manufacturer to indicate that the pressure equipment or assembly in

<sup>1</sup> More specifically, Directive 2006/42/EC of the European Parliament and of the Council of 17 May 2006 on machinery, and amending Directive 95/16/EC (OJ 2006, L 157, p. 24), Directive 2014/35/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of electrical equipment designed for use within certain voltage limits (OJ 2014, L 96, p. 357) and Directive 2014/68/EU of the European Parliament and of the Council of 15 May 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of pressure equipment (OJ 2014, L 189, p. 164).

question is in conformity with the harmonised requirements at EU level. That marking **indicates the conformity** with those requirements and is the visible consequence of a **whole process comprising conformity assessment in a broad sense**.

Thus, the Court considers that the Member States may not, including 'solely for the use of that equipment in premises open to the public and having regard to specific fire safety risks', impose requirements additional to those laid down by Directive 2014/68 for the making available on the national market of that equipment: such national requirements **would amount to depriving the harmonisation measures** laid down by that directive **of their effectiveness**.

**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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