European Court of Justice judgment C-274/11 Spain v Council and C-295/11 Italy v Council (Intellectual property)

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On 11 December at the European Court of Auditors, the following case is seing: Kingdom of Spain v Council of the European Union The main arguments are: 1. Misuse of powers since recourse was had to enhanced cooperation although the purpose is not to achieve integration of all the Member States - the mechanism having been used instead to avoid negotiating with a Member State, imposing upon it an opt-out solution - and although the objectives pursued in this instance could have been achieved by means of a special agreement as provided for in Article 142 of the European Patent Convention.2 2. Failure to respect the judicial system of the EU in that no dispute resolution system is provided for in relation to certain legal rights subject to EU law. 3. In the alternative, should the Court find that it is appropriate in this instance to have recourse to enhanced cooperation and that it is possible to establish substantive rules for legal rights subject to EU law without making provision for a dispute resolution system in relation to those rights, the Kingdom of Spain submits that the necessary conditions for enhanced cooperation are not met for the following reasons: 3.1 infringement of Article 20(1) TEU, since in this instance enhanced cooperation is not a last resort and does not fulfil the objectives provided for in the TEU and since areas are referred to which are not within the scope of enhanced cooperation as they are exclusive competence of the EU. 3.2 infringement of Article 326 TFEU, since enhanced cooperation in this instance infringes the principle of non-discrimination and undermines the internal market and economic, social and territorial cohesion, constituting discrimination in trade between Member States and distorting competition between them. 3.3 infringement of Article 327 TFEU, since the enhanced cooperation does not respect the rights of the Kingdom of Spain, which is not participating in it.

HEURE	DESCRIPTION	DUREE
00:00:00	Title	00:00:12
00:00:12	General atmosphere inside the Court room	00:00:04
00:00:16	Arrival of the Judges at the Court of Justice of the EU	00:00:09
00:00:25	SOUNDBITE (in French) by Niilo Jääskinen, Advocate General at the Court of Justice reding the judgmentS C-274/11 Spain v Council and C-295/11 Italy v Council (Intellectual property)	00:00:35
00:01:00	Banner of the Court of Justice	00:00:04
00:01:04	END	00:00:00

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