



Brussels, 4 December 2014
(OR. en)

16533/14

JUR 915
SAN 469

INFORMATION NOTE

From: Legal Service
To: Permanent Representatives Committee (Part 1)
Subject: Case C-477/14 (The Queen on the application of Pillbox 38 (UK) Limited (trading as "Totally Wicked"))

1. By order of 6 October 2014, notified by the Registrar of the Court of Justice to the General Secretariat of the Council on 25 November 2014, the High Court of Justice, Queen's Bench Division, Administrative Court, has requested the Court of Justice to give a preliminary ruling pursuant to Article 267 of the Treaty on the Functioning of the European Union on the validity of Article 20 of Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC¹, hereinafter "the Directive".
2. Article 20 of the Directive concerns electronic cigarettes. The High Court of Justice refers the question to the European Court of Justice of whether this Article is either in whole or in a relevant part for one or more of the following reasons invalid:
 - infringement of the principle of proportionality, read in conjunction with the principle of legal certainty,

¹ OJ L 127, 29 April 2014, p. 1.

- failure to comply with the principle of equal treatment and/or unlawful distortion of competition,
 - failure to comply with the principle of subsidiarity,
 - infringement of the rights of electronic cigarette manufacturers or retailers under Articles 16 and/or 17 of the Charter of Fundamental Rights.
3. The Council is, according to Article 23 of the Statute of the Court, entitled to submit observations within two months of receipt of the notification, in a case governed by Article 267 of the Treaty if the act, the validity or interpretation of which is in dispute, originates from the Council.
4. The Director-General of the Legal Service of the Council has appointed Ms Marion SIMM, Mr Joachim HERRMANN and Mr Andreas NORBERG, legal advisers in the said service, as the Council's agents in this case.
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