

European Union

“United Video Properties”

Decision of the European Court of Justice (Fifth Chamber)
28 July 2016 – Case No. C-57/15

United Video Properties Inc. v. Telenet NV

Directive 2004/48/EC, Art. 14

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Keywords Legal costs · Lawyers’ fees · Flat-rate reimbursement · Costs of technical adviser · Enforcement · Condition of fault

1. Article 14 of Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights must be interpreted as not precluding national legislation, such as that at issue in the main proceedings, which provides that the unsuccessful party is to be ordered to pay the legal costs incurred by the successful party, which offers the courts responsible for making that order the possibility of taking into account features specific to the case before it, and provides for a flat-rate scheme for the reimbursement of costs for the assistance of a lawyer, subject to the condition that those rates ensure that the costs to be borne by the unsuccessful party are reasonable, which it is for the referring court to determine. However, Article 14 of that directive precludes national legislation providing flat-rates which, owing to the maximum amounts that it contains being too low, do not ensure that, at the very least, that a significant and appropriate part of the reasonable costs incurred by the successful party are borne by the unsuccessful party.
2. Article 14 of Directive 2004/48 must be interpreted as precluding national rules providing that reimbursement of the costs of a technical adviser are provided for only in the event of fault on the part of the unsuccessful party, given that those costs are directly and closely linked to a judicial action seeking to have such an intellectual property right upheld.

For a case note on this decision by Peter R. Slowinski, *see* this issue of IIC at doi:[10.1007/s40319-017-0579-9](https://doi.org/10.1007/s40319-017-0579-9).

Available at <http://curia.europa.eu>.
