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Provisional text

JUDGMENT OF THE COURT (Fifth Chamber)

23 November 2023 (*)

(Reference for a preliminary ruling – Intellectualpropertyrights – Directive 2014/26/EU – Collective management of copyright and relatedrights – Collective management organisation – Directive 2004/48/EC – Measures, procedures and remediesnecessary to ensure the enforcement of intellectualpropertyrights – Article 4 – Personentitled to seek the application of the measures, procedures and remediesprovided for in Directive 2004/48/EC – Collective management organisationauthorised to carry out extendedcollective licensing – Standing to bringproceedings for the defence of intellectualpropertyrights)

In Case C-201/22,

REQUEST for a preliminary ruling under Article 267 TFEU from the Korkeinoikeus (Supreme Court, Finland), made by decision of 15 March 2022, receivedat the Court on 15 March 2022, in the proceedings

Kopioistory

v

Telia FinlandOyj,

THE COURT (Fifth Chamber),

composed of E. Regan, President of the Chamber, Z. Csehi, M. Ilešič (Rapporteur), I. Jarukaitis and D. Gratsias, Judges,

Advocate General: M. Szpunar,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

- Kopiostory, by S. Lapiolahti and B. Rapinoja, as appearing,
- Telia Finland Oyj, by M. Manner, as appearing,
- the Finnish Government, by M. Pere, acting as Agent,
- the Polish Government, by B. Majczyna, acting as Agent,
- the European Commission, by S.L. Kalėda, J. Samnadda and I. Söderlund, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 11 May 2023,

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Article 4(c) of Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights (OJ 2004 L 157, p. 45, and corrigenda OJ 2004 L 195, p. 16, and OJ 2007 L 204, p. 27) and Articles 17 and 47 of the Charter of Fundamental Rights of the European Union ('the Charter').

2 The request has been made in proceedings between Kopiostory and Telia Finland Oyj ('Telia') concerning the retransmission by Telia of television broadcasts that allegedly infringe copyrights of the authors represented by Kopiosto.

Legal context

European Union law

Directive 2004/48

3 Recitals 3, 10 and 18 of Directive 2004/48 state:

'(3) ... without effective means of enforcing intellectual property rights, innovation and creativity are discouraged and investment diminished. It is therefore necessary to ensure that the substantive law on intellectual property, which is nowadays largely part of the *acquis communautaire*, is applied effectively in the [European] Community. In this respect, the means of enforcing intellectual property rights are of paramount importance for the success of the internal market.

...

(10) The objective of this Directive is to approximate legislative systems so as to ensure a high, equivalent and homogeneous level of protection in the internal market.

...

(18) The persons entitled to request application of [the] measures, procedures and remedies [provided for in this Directive] should be not only the rightholders but also persons who have a direct interest and legal standing in so far as permitted by and in accordance with the applicable law, which may include professional organisations in charge of the management of those rights or for the defence of the collective and individual interests for which they are responsible.'

4 Chapter I of that directive, entitled 'Objective and scope', includes, inter alia, Article 1, entitled 'Subject matter', which provides:

'This Directive concerns the measures, procedures and remedies necessary to ensure the enforcement of intellectual property rights. For the purposes of this Directive, the term "intellectual property rights" includes industrial property rights.'

5 Article 2 of that directive, entitled 'Scope', provides, in paragraph 1 thereof:

'Without prejudice to the means which are or may be provided for in Community or national legislation, in so far as those means may be more favourable for rightholders, the measures, procedures and remedies provided for by this Directive shall apply, in accordance with Article 3, to any infringement of intellectual property rights as provided for by Community law and/or by the national law of the Member State concerned.'

6 Chapter II of that directive, which comprises Articles 3 to 15 thereof, is entitled 'Measures, procedures and remedies'.

7 Article 3 of Directive 2004/48, entitled 'General obligation', provides:

'1. Member States shall provide for the measures, procedures and remedies necessary to ensure the enforcement of the intellectual property rights covered by this Directive. Those measures, procedures and remedies shall be fair and equitable and shall not be unnecessarily complicated or costly, or entail unreasonable time-limits or unwarranted delays.

2. Those measures, procedures and remedies shall also be effective, proportionate and dissuasive and shall be applied in such a manner as to avoid the creation of barriers to legitimate trade and to provide for safeguards against their abuse.'

8 Article 4 of that directive, entitled 'Persons entitled to apply for the application of the measures, procedures and remedies', reads as follows:

'Member States shall recognise as persons entitled to seek application of the measures, procedures and remedies referred to in this chapter:

(a) the holders of intellectual property rights, in accordance with the provisions of the applicable law;

(b) all other persons authorised to use those rights, ... in so far as permitted by and in accordance with the provisions of the applicable law;

(c) intellectual property collective rights-management bodies which are regularly recognised as having a right to represent holders of intellectual property rights, in so far as permitted by and in accordance with the provisions of the applicable law;

(d) professional defence bodies which are regularly recognised as having a right to represent holders of intellectual property rights, in so far as permitted by and in accordance with the provisions of the applicable law.’

Directive 2014/26/EU

9 Recitals 8, 9, 12 and 49 of Directive 2014/26/EU of the European Parliament and of the Council of 26 February 2014 on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market (OJ 2014 L 84, p. 72) state:

‘(8) The aim of this Directive is to provide for coordination of national rules concerning access to the activity of managing copyright and related rights by collective management organisations, the modalities for their governance, and their supervisory framework, ...

(9) The aim of this Directive is to lay down requirements applicable to collective management organisations, in order to ensure a high standard of governance, financial management, transparency and reporting. ...

...

(12) This Directive, while applying to all collective management organisations, ... does not interfere with arrangements concerning the management of rights in the Member States such as individual management, the extended effect of an agreement between a representative collective management organisation and a user, i.e. extended collective licensing, mandatory collective management, legal presumptions of representation and transfer of rights to collective management organisations.

...

(49) ... Finally, it is also appropriate to require that Member States have independent, impartial and effective dispute resolution procedures, via bodies possessing expertise in intellectual property law or via courts, suitable for settling commercial disputes between collective management organisations and users on existing or proposed licensing conditions or on a breach of contract.’

10 Article 3(a) of that directive, entitled ‘Definitions’, provides:

‘For the purposes of this Directive, the following definitions shall apply:

(a) “collective management organisation” means any organisation which is authorised by law or by way of assignment, licence or any other contractual arrangement to manage copyright or rights related to copyright on behalf of more than one rightholder, for the collective benefit of those rightholders, as its sole or main purpose, and which fulfils one or both of the following criteria:

(i) it is owned or controlled by its members;

(ii) it is organised on a not-for-profit basis’.

11 Under Article 35 of that directive, entitled ‘Dispute resolution’:

‘1. Member States shall ensure that disputes between collective management organisations and users concerning, in particular, existing and proposed licensing conditions or a breach of contract can be submitted to a court, or if appropriate, to another independent and impartial dispute resolution body where that body has expertise in intellectual property law.

2. Articles 33 and 34 and paragraph 1 of this Article shall be without prejudice to the right of the parties to assert and defend their rights by bringing an action before a court.’

Finnish law

12 Paragraph 26 of tekijänoikeuslaki (404/1961) (Law on copyright (401/1961)) of 8 July 1961, as amended by lakitekiänoikeuslainmuuttamisesta (607/2015) (Law amending the Law on copyright (607/2015)) of 22 May 2015 (‘the Law on copyright’), which is entitled ‘Contractual licence’, provides, in subparagraph 1, that the provisions of the Law on copyright relating to contractual licences are to apply to an agreement concluded between a user and the organisation, approved by the Ministry of Education and Culture, which represents, in a specific sector, a number of authors of works used in Finland, for the use of authors’ works falling within that same sector. The approved organisation is deemed, in respect of that agreement, to be entitled also to represent the authors of works in the same sector. A licensee who has obtained a contractual licence pursuant to that agreement may, under the terms specified in that agreement, use all the works of authors falling within the same sector.

13 Under Paragraph 26(4) of the Law on copyright, the arrangements laid down by the organisation referred to in subparagraph 1 of that paragraph with respect to the distribution of the remuneration for the reproduction, communication or transmission of works between the authors which it represents or to the use of the remuneration for purposes common to the authors are also to apply to the authors in the same sector referred to in subparagraph 1 whom the organisation does not directly represent.

14 Paragraph 25 h of the Law on copyright, entitled ‘Retransmission of radio or television broadcasting’, provides, in subparagraph 1, that a work included in a radio or television broadcast may be retransmitted without modifying the broadcast, under a contractual licence, as provided for in Paragraph 26 of that law, in order to be received by the public at the same time as the original broadcast.

The dispute in the main proceedings and the questions referred for a preliminary ruling

15 Kopiosto is a collective management organisation within the meaning of Article 3(a) of Directive 2014/26, which manages and grants licences on behalf of numerous authors on the basis of mandates conferred on it by those authors. Kopiosto is also approved by the Ministry of Education and Culture as a contractual licensing organisation, within the meaning of Paragraph 26 of the Law on copyright, in particular as regards the retransmission of works included in a radio or television broadcast, within the meaning of Paragraph 25 h(1) of that law.

16 Telia operates a cable television network by which broadcasts of domestic free-to-air television channels are transmitted to the public.

17 On 24 January 2018, Kopiosto applied to the markkinaoikeus (Market Court, Finland) for a declaration that Telia had retransmitted television broadcasts, within the meaning of Paragraph 25 h of the Law on copyright, and that, in the absence of prior authorisation on its part, that retransmission infringed the copyrights of the authors that Kopiosto represents, primarily, as a

contractual licensing organisation and, alternatively, by virtue of the mandates conferred on it by the copyright holders.

18 Telia challenged Kopiosto's standing to bring an action for copyright infringement.

19 By judgment of 18 June 2019, the markkinaoikeus (Market Court), *inter alia*, dismissed as inadmissible Kopiosto's claims alleging infringement of copyright on the ground that Kopiosto was not entitled to bring an infringement action in its own name on behalf of rightholders whom it represents as a contractual licensing organisation in the situations governed by Paragraph 26 of the Law on copyright. That court also took the view that Kopiosto did not have standing to bring an infringement action on behalf of rightholders who had granted it an administrative mandate and powers of attorney in respect of their rights.

20 Kopiosto brought an appeal against that judgment before the Korkeinoikeus (Supreme Court, Finland), which is the referring court, claiming, primarily, that, because of its status as a contractual licensing organisation, it has, as required by Article 4(c) of Directive 2004/48, a direct interest in bringing proceedings in the event of unlawful use of the works of authors whom it represents and, in the alternative, that it has, at the very least, the right to bring proceedings in respect of the unauthorised use of the works of authors whose copyright it manages on the basis of the mandates for management and representation conferred on it by those authors.

21 Before the referring court, Telia submits that, as a contractual licensing organisation, Kopiosto is authorised to grant licences for the retransmission of television programmes and to collect the associated remuneration. By contrast, only the initial holder of the copyright concerned or the assignee of that copyright could bring an action for infringement of that copyright.

22 The Korkeinoikeus (Supreme Court) maintains, in essence, that, in order to resolve the dispute in the main proceedings, it is necessary, in the absence of a relevant provision of national law, to determine the conditions under which a collective management organisation, within the meaning of Article 3(a) of Directive 2014/26, may be regarded as having standing to seek the application of the measures, procedures and remedies referred to in Chapter II of Directive 2004/48. In particular, that court asks whether, for that purpose, it is sufficient, according to Article 4(c) of that directive, that a contractual licensing organisation has the general capacity to be a party to legal proceedings under national law and has the right to negotiate and grant such licences for the retransmission of television broadcasts on behalf of all rightholders in the sector in question, or whether standing to bring legal proceedings requires that that organisation be expressly entitled under national law to bring an action for infringement of the rights in question in its own name.

23 In that regard, that court observes, first of all, that, in the judgment of 7 August 2018, *SNB-REACT* (C-521/17, EU:C:2018:639), the Court made that status subject to the condition that a body collectively representing trade mark proprietors is regarded by national law as having a direct interest in the defence of such rights and that that law allows it to bring legal proceedings for that purpose, without, however, specifying whether that second condition refers to the general capacity of that body to bring legal proceedings as a party before a court, or whether it requires that national law expressly provide that an extended collective licensing organisation is entitled to bring an action for copyright infringement, or otherwise allows it to do so.

24 Next, the referring court considers that, in the light of paragraphs 34 and 35 of that judgment, it is not clear whether Article 4(c) of Directive 2004/48 is to be interpreted as being intended to standardise what is to be understood by the 'direct interest', set out in recital 18 of Directive 2004/48, of an organisation to defend the rights of the rightholders whom it represents, or whether that is to be

determined on the sole basis of national law. Nor is it clear from Article 4(c) of Directive 2004/48, read in conjunction with recital 18 thereof, whether a collective management organisation has a direct interest in defending intellectual property rights merely because it is entitled, by virtue of, on the one hand, the extended collective licence or, on the other hand, the mandates for management granted by the rightholders, to grant rights of use over works and to collect, on behalf of rightholders, the remuneration payable to the latter.

25 Lastly, the referring court expresses doubts with regard, in particular, to the question of standing to bring proceedings on the basis of status as an extended collective licensing organisation, as to how Article 4(c) of Directive 2004/48 is to be interpreted in the light of, first, the protection of property laid down in Article 17 of the Charter and, secondly, the right to an effective remedy under Article 47 of the Charter. In that regard, the Korkein oikeus (Supreme Court) states that, if the extended collective licensing organisation were to be regarded as having the right to bring an action for infringement in its own name, that could have the effect of limiting the holder's right to bring an action himself. In that context, the question arises as to whether such an organisation's standing to bring legal proceedings in the event of infringement of the rights of authors who have not assigned their exclusive rights must be regarded as constituting a disproportionate interference with those authors' entitlement to their copyright. That court states, however, that such an interference could be justified, in particular, in the light of the fact that collective management organisations are likely to intervene more effectively than the copyright holder himself.

26 In those circumstances, the Korkein oikeus (Supreme Court) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

'(1) With regard to contractual licensing organisations which collectively manage intellectual property rights, does the legal standing to defend those rights, which is conferred by Article 4(c) of Directive 2004/48, refer only to the general capacity to be a party to legal proceedings, or does it require a right expressly recognised by national law to bring legal proceedings in one's own name for the purposes of defending the rights in question?

(2) In an interpretation based on Article 4(c) of Directive 2004/48, must the term "direct interest in the defence of the copyright of the rightholders whom it represents" be interpreted uniformly in all Member States as regards the right of a collective representation body within the meaning of Article 3(a) of [Directive 2014/26] to bring an action for copyright infringement in its own name where

(a) it concerns uses of works in respect of which an organisation is entitled, as a contractual licensing organisation within the meaning of the Tekijänoikeuslaki (Law on copyright), to grant extended collective licences also allowing the licensee to use works by authors in that sector who have not authorised the organisation to manage their rights;

(b) it concerns uses of works in respect of which the authors have authorised the organisation to manage their rights by contract or by way of a mandate, without the copyrights having been assigned to the organisation?

(3) If the organisation, in its capacity as a contractual licensing organisation, is presumed to have a direct interest and legal standing to bring an action in its own name: in assessing standing to bring proceedings in the light of, where applicable, Articles 17 and 47 of the [Charter], what significance must be given to the fact that the organisation, as a contractual licensing

organisation, also represents authors who have not authorised it to manage their rights, and that the organisation's right to bring an action to defend the rights of such authors is not provided for by law?

Consideration of the questions referred

The first question

27 By its first question, the referring court asks, in essence, whether Article 4(c) of Directive 2004/48 must be interpreted as meaning that, in addition to the condition relating to the direct interest in the defence of the rights concerned, recognition of the status of intellectual property collective rights-management bodies to request, in their own name, the application of the measures, procedures and remedies provided for in Chapter II of that directive is subject solely to the capacity of those organisations to be a party to legal proceedings or whether it requires express recognition, in the applicable law, of those organisations to bring legal proceedings for the purposes of defending intellectual property rights.

28 In that regard, it should be recalled, first of all, that the Court has held that it is apparent from recital 18 of Directive 2004/48, in the light of which Article 4 thereof must be read, that the EU legislature intended that not only the holders of intellectual property rights, but also persons who have a direct interest in the defence of those rights and the right to bring legal action, be recognised as persons entitled to seek the application of measures, procedures and remedies, provided for by that directive, in so far as the applicable law allows it and in accordance with that law (judgment of 7 August 2018, *SNB-REACT*, C-521/17, EU:C:2018:639, paragraph 33).

29 Those persons are listed in Article 4(b) to (d) of that directive. Intellectual property collective rights-management bodies are referred to in point (c) of that article, under which Member States are to recognise intellectual property collective rights-management bodies, which are regularly recognised as having a right to represent holders of intellectual property rights, as persons entitled to seek the application of the measures, procedures and remedies referred to in Chapter II, in so far as permitted by and in accordance with the provisions of the applicable law.

30 The Court held that Article 4(c) of Directive 2004/48 must be interpreted as meaning that the Member States are required to recognise a body collectively representing trade mark proprietors as a person entitled to seek, in its own name, the application of the remedies laid down by that directive, for the purpose of defending the rights of those trade mark proprietors, and to bring legal proceedings, in its own name, for the purpose of enforcing those rights, on condition that the body is regarded by national law as having a direct interest in the defence of those rights and that that law allows it to bring proceedings to that end (see, to that effect, judgment of 7 August 2018, *SNB-REACT*, C-521/17, EU:C:2018:639, paragraph 39).

31 It follows that the capacity of an intellectual property collective rights-management body to seek, in its own name, the application of the measures, procedures and remedies provided for in Chapter II of Directive 2004/48 is subject to the condition that that body is regarded by the applicable national legislation as having a direct interest in the defence of such rights and that that legislation authorises it to bring legal proceedings for that purpose.

32 Consequently, although an intellectual property collective rights-management body must necessarily have the capacity to be a party to legal proceedings in order to be recognised as having standing to seek, in its own name, the application of the measures, procedures and remedies provided for by that directive, such capacity cannot be sufficient on its own for that purpose.

33 Moreover, given that the capacity to be a party to legal proceedings is an ordinary attribute of the legal personality enjoyed, in principle, by collective management organisations, a different interpretation would deprive the second condition set out in paragraph 39 of the judgment of 7 August 2018, *SNB-REACT* (C-521/17, EU:C:2018:639), of its effectiveness.

34 Next, as regards the question whether recognition of that capacity of an intellectual property collective rights-management body to seek, in its own name, the application of the measures, procedures and remedies provided for in Directive 2004/48 is subject to that capacity being expressly recognised in the applicable legislation, it should be recalled that Article 4(c) of that directive refers, in general terms, to the ‘provisions of the applicable law’.

35 Such an expression does not necessarily mean that the capacity of intellectual property collective rights-management bodies to seek, in their own name, the application of the measures, procedures and remedies provided for in that directive is expressly recognised by a specific provision, since that standing to bring proceedings may result from general procedural rules.

36 That interpretation is supported by the objective of Directive 2004/48, which is, as stated in recital 10 thereof, to ensure a high level of protection of intellectual property in the internal market (judgment of 17 June 2021, *M.I.C.M.*, C-597/19, EU:C:2021:492, paragraph 75 and the case-law cited). To that end, Article 3 of that directive requires Member States to provide for a minimum set of measures, procedures and remedies necessary to ensure the enforcement of intellectual property rights.

37 As is apparent from recital 18 of that directive, the EU legislature considered it desirable that, as noted in paragraph 28 above, not only the holders of intellectual property rights, but also collective management organisations, which, as a general rule, have financial and material resources enabling them effectively to bring legal proceedings in order to combat infringements of those rights, be recognised as persons entitled to request the application of the measures, procedures and remedies provided for in that directive.

38 Consequently, a restrictive interpretation of Article 4(c) of Directive 2004/48 could, in the Member States that have not adopted a provision specifically governing the right of collective management organisations to bring proceedings, prevent such organisations from seeking, in their own name, the application of the measures, procedures and remedies provided for by that directive, which could diminish the effectiveness of the means put in place by the EU legislature in order to enforce intellectual property rights.

39 In the light of the foregoing considerations, the answer to the first question is that Article 4(c) of Directive 2004/48 must be interpreted as meaning that, in addition to the condition relating to the direct interest in the defence of the rights concerned, recognition of the status of intellectual property collective rights-management bodies to seek, in their own name, the application of the measures, procedures and remedies provided for in Chapter II of that directive is subject to the standing of those organisations to bring legal proceedings for the purposes of defending intellectual property rights, which may result from a specific provision to that effect or from general procedural rules.

The second question

40 By its second question, the referring court asks, in essence, whether Article 4(c) of Directive 2004/48 must be interpreted as meaning that Member States are required to

recognise that intellectual property collective rights-management bodies which are regularly recognised as having a right to represent holders of intellectual property rights have a direct interest in seeking, in their own name, the application of the measures, procedures and remedies provided for in Chapter II of that directive in the event that the existence of a direct interest in the defence of the rights concerned in respect of those bodies does not follow from the applicable national legislation.

41 It should be borne in mind that the concept of ‘direct interest’, which does not appear in Article 4 of Directive 2004/48, is referred to in recital 18 of that directive, from which it is apparent that the EU legislature intended that not only the holders of intellectual property rights, but also persons who have a direct interest in the defence of those rights and the right to bring legal action, be recognised as persons entitled to seek the application of the measures, procedures and remedies provided for by that directive, ‘in so far as permitted by and in accordance with the applicable law’.

42 Thus, while Article 4(a) of Directive 2004/48 provides that Member States are to recognise, in any event, holders of intellectual property rights as persons entitled to seek application of the measures, procedures and remedies referred to in Chapter II of that directive, Article 4(b) to (d) each state that it is only in so far as is permitted by, and in accordance with, the provisions of the applicable law that Member States may recognise other persons, as well as certain specific bodies, as having that same standing (judgment of 7 August 2018, *SNB-REACT*, C-521/17, EU:C:2018:639, paragraph 28).

43 In that regard, the Court stated that the reference to the ‘applicable law’ made in Article 4(c) of Directive 2004/48 must be understood as referring to both relevant national legislation and EU legislation, as appropriate (see, to that effect, judgment of 7 August 2018, *SNB-REACT*, C-521/17, EU:C:2018:639, paragraph 31).

44 Therefore, as the Advocate General observed in point 52 of his Opinion, in order to answer the second question, it is necessary to establish whether the provisions of EU law currently in force recognise the existence of a direct interest of collective management organisations in the defence of intellectual property rights.

45 In that regard, first, as is apparent from paragraphs 41 and 42 above, that directive, in so far as it refers, for that purpose, to the applicable legislation, does not itself govern whether a collective management organisation has a direct interest in the defence of intellectual property rights.

46 That interpretation is supported by the *travaux préparatoires* for that directive, from which it is apparent that the EU legislature abandoned the idea of harmonising the standing to bring proceedings of the bodies referred to in Article 4(c) of that directive. While the European Commission’s initial Proposal for a Directive of the European Parliament and of the Council on measures and procedures to ensure the enforcement of intellectual property rights (COM(2003) 46 final) envisaged imposing an obligation on Member States to recognise collective management organisations as being ‘entitled to apply for the application of the measures and procedures and to initiate legal proceedings for the defence of those rights or of the collective or individual interests for which they are legally responsible’, that approach was ultimately rejected in favour of a reference to the applicable legislation.

47 Secondly, although Article 35(1) of Directive 2014/26, read in the light of recital 49 thereof, requires Member States to have in place dispute-resolution procedures between collective management organisations and users that are independent, impartial and effective, in particular via

courts, the fact remains that, as is apparent from recitals 8 and 9 of that directive, the objective of that directive is not to govern the conditions under which those organisations may bring legal proceedings, but to coordinate national rules concerning access to the activity of managing copyright and related rights, the modalities for their governance, and their supervisory framework, and to ensure a high standard of governance, financial management, transparency and reporting by such organisations. It cannot therefore be held that the purpose of that provision is to govern the question of the direct interest of collective management organisations in the defence of intellectual property rights.

48 In those circumstances, it must be held that EU law does not govern the conditions in which a collective management organisation must be regarded as having a direct interest in the defence of intellectual property rights and that the ‘provisions of the applicable law’ referred to in Article 4(c) of Directive 2004/48 refer to the national law of the Member States.

49 In that regard, it should be borne in mind that the Court has held that the Member States are required to recognise an intellectual property collective rights-management body as a person entitled to seek the application of the measures, procedures and remedies provided for by that directive, and to bring legal proceedings for the purpose of enforcing such rights where, in particular, that body is regarded by national law as having a direct interest in the defence of those rights. Consequently, it is for the national courts to determine whether such a body has, under the applicable national law, a direct interest in the defence of the rights of the proprietors whom it represents, bearing in mind that, in the absence of that condition, no such recognition obligation is incumbent on the Member State concerned (see, to that effect, judgment of 7 August 2018, *SNB-REACT*, C-521/17, EU:C:2018:639, paragraphs 34, 36 and 38).

50 In the light of the foregoing considerations, the answer to the second question is that Article 4(c) of Directive 2004/48 must be interpreted as meaning that, as EU law currently stands, Member States are not required to recognise that intellectual property collective rights-management bodies which are regularly recognised as having a right to represent holders of intellectual property rights have a direct interest in seeking, in their own name, the application of the measures, procedures and remedies provided for in Chapter II of that directive in the event that the existence of a direct interest in the defence of the rights concerned in respect of those bodies does not follow from the applicable national legislation.

The third question

51 By its third question, the referring court asks, in essence, what significance must be given, in assessing standing to bring proceedings in the light of, where applicable, Articles 17 and 47 of the Charter, to the fact that the organisation concerned, as a contractual licensing organisation, also represents authors who have not authorised it to manage their rights and that the organisation’s right to bring an action to defend the rights of such authors is not provided for by law.

52 As is apparent from its wording, as formulated by the referring court, that question is raised in the event that a collective management organisation is considered to have a direct interest and standing to bring proceedings in its own name in disputes concerning rights covered by extended licenses.

53 As the Advocate General observed in point 65 of his Opinion, such a premise does not exist in the present case. First, as stated in paragraph 48 above, the EU legislation currently in force does not establish, for collective management organisations, the existence of a direct interest in seeking, in their own name, the application of the measures, procedures and remedies referred to in Chapter II of Directive 2004/48. Secondly, it is apparent from the order for reference that the standing

of those organisations to bring proceedings is governed, in Finnish law, neither by a specific provision to that effect of the applicable national legislation nor by general procedural rules.

54 In those circumstances, in view of the answer given to the second question, there is no need to answer the third question.

Costs

55 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the referring court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Fifth Chamber) hereby rules:

1. **Article 4(c) 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 meaning that, in addition to the condition relating to the direct interest in the defence of the rights concerned, recognition of the status of intellectual property collective rights-management bodies to seek, in their own name, the application of the measures, procedures and remedies provided for in Chapter II of that directive is subject to the standing of those organisations to bring legal proceedings for the purposes of defending intellectual property rights, which may result from a specific provision to that effect or from general procedural rules.

2. **Article 4(c) of Directive 2004/48**

must be interpreted as meaning that, as EU law currently stands, Member States are not required to recognise that intellectual property collective rights-management bodies which are regularly recognised as having a right to represent holders of intellectual property rights have a direct interest in seeking, in their own name, the application of the measures, procedures and remedies provided for in Chapter II of that directive in the event that the existence of a direct interest in the defence of the rights concerned in respect of those bodies does not follow from the applicable national legislation.

[Signatures]

* Language of the case: Finnish.