

## HOW TO HANDLE COURT PROCEEDINGS INVOKING NON-COMPLIANCE WITH EU WASTE LAW

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### ELVs case study



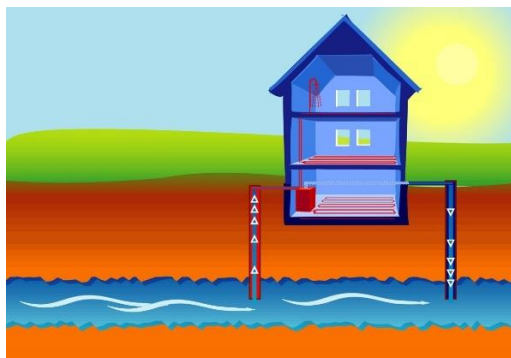
John Dupont, 92 years old, has a very old car. He lost his driving license three months ago. So he decided to stop driving. Nobody is interested in buying the old car which is not a vintage vehicle.

So he decided to deliver his car to a demolition company who has a treatment facility just next to his house. The demolisher accepted in return for a sum of 1000 euros. M. Dupont refused and the demolisher suggested another demolishers. For M. Dupont, it is too complicated because the other demolishers are located outside his town and he feels too tired.

What can M. Dupont do?

Is a lawsuit possible in front of a domestic tribunal and if the answer is affirmative, on which legal basis? Who will M. Dupont take action against in court: the demolisher and/or the manufacturer? Is it possible to invoke the direct effect of the ELV Directive? If the lawsuit is only against the demolisher, is it possible for the latter to take legal action against the manufacturer?

### WEEE case study



Comfort Heat Ltd is a German company which puts on the German market heat pumps water/water. Comfort Heat is registered with the competent national authority as producer of electrical and electronic equipment.

In 2019, Eco Heat Ltd, a Belgian company, extends its market and places also on the German market heat pumps water/water without being registered as a producer of EEE with neither the German competent authority nor the Belgian authority.

Comfort Heat serves a writ on Eco Heat before the domestic competition Court on the basis of the German law against unfair competition.

Comfort Heat considers that Eco Heat is not allowed to place its heat pumps water/water on the German market before being registered with the competent authority in Germany or in Belgium.

Eco Heat disputes this view because, according to it, heat pump water/water is not electrical or electronic equipment within the meaning of the WEEE Directive. According to Eco Heat, pursuant Annex IV of the WEEE Directive, point 1, its heat pumps are not in the category of “other temperature exchange equipment using fluids other than water for the temperature exchange”. Hence, its devices are not in the scope of the WEEE Directive.

That is why Eco Heat demands the competition Court to request at the European Court of Justice for a preliminary ruling concerning the interpretation of Annex IV, point 1.

What could be the interpretation made by the European Court of Justice?

#### **Packaging and packaging waste case study**



Happyprint Ltd is a Belgian company which manufactures gift-wrapping paper bags with ribbon handles and puts them on the market through retailers or intermediaries.

Following an inquiry, the Walloon Environment Protection Agency, the body in charge of the control of waste management policy, decided to take criminal proceedings against Happyprint which refused to join the Belgian collection and recovery system – Fost Plus – and pay the due fees.

Happyprint disputes before the tribunal the fact that its paper bags gift are packaging within the meaning of the Walloon legislation and the Directive. For it, if these bags contain the purchased goods, their function is not to protect them nor facilitate their transport. Usually, the shoppers put the gift with its paper gift bag in a paper or plastic bag with the name of the shop printed on it. It demonstrates that the paper gift bags are not packaging.

The tribunal requests the European Court for a preliminary ruling on this question: are paper gift bags wrapping with ribbon handles packaging within the meaning of the Directive 94/62/EC?

In your opinion, what could be the answer?