Judgment of the Court (Grand Chamber) of 21 April 2026.
Nederlandse Voedsel- en Warenautoriteit and Others v Stichting Rookpreventie Jeugd.
Reference for a preliminary ruling – Approximation of laws – Manufacture, presentation and sale of tobacco products and related products – Directive 2014/40/EU – Article 3(1) – Maximum emission levels for tar, nicotine and carbon monoxide – Article 4(1) – Measurement methods – Measurement of emission levels on the basis of the ISO standards referred to in Article 4(1) – Standards not published in the Official Journal of the European Union – Enforceability of those ISO standards – Article 2 TEU – Value of the rule of law – Requirement of free access to such standards.
Case C-155/24.

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JUDGMENT OF THE COURT (Grand Chamber)

21 April 2026 (*)

(Reference for a preliminary ruling – Approximation of laws – Manufacture, presentation and sale of tobacco products and related products – Directive 2014/40/EU – Article 3(1) – Maximum emission levels for tar,

nicotine and carbon monoxide – Article 4(1) – Measurement methods – Measurement of emission levels on the basis of the ISO standards referred to in Article 4(1) – Standards not published in the Official Journal of the European Union – Enforceability of those ISO standards – Article 2 TEU – Value of the rule of law – Requirement of free access to such standards)

In Case C-155/24,

REQUEST for a preliminary ruling under Article 267 TFEU from the College van Beroep voor het bedrijfsleven (Supreme Administrative Court for Trade and Industry, Netherlands), made by decision of 27 February 2024, received at the Court on 28 February 2024, in the proceedings

Nederlandse Voedsel- en Warenautoriteit,

Staatssecretaris van Volksgezondheid, Welzijn en Sport,

Philip Morris Benelux BV,

Philip Morris Investments BV,

JT International Company Netherlands BV,

Vereniging Nederlandse Sigaretten- & Kerftabakfabrikanten,

Van Nelle Tabak Nederland BV,

British American Tobacco International (Holdings) BV

v

Stichting Rookpreventie Jeugd,

THE COURT (Grand Chamber),

composed of K. Lenaerts, President, T. von Danwitz, Vice-President, F. Biltgen, I. Jarukaitis, M.L. Arastey Sahún, I. Ziemele, J. Passer, O. Spineanu-Matei and M. Condinanzi, Presidents of Chambers, S. Rodin (Rapporteur), A. Kumin, N. Jääskinen, D. Gratsias, M. Gavalec and B. Smulders, Judges,

Advocate General: N. Emiliou,

Registrar: A. Lamote, Administrator,

having regard to the written procedure and further to the hearing on 10 March 2025,

after considering the observations submitted on behalf of:

– Philip Morris Benelux BV and Philip Morris Investments BV, by Y.E.A. Buruma and R. de Bree, advocaten,

– JT International Company Netherlands BV, by T. Heystee, M. Immerzeel, W. Knibbeler and A. Pliego Selie, advocaten,

– Van Nelle Tabak Nederland BV, by H.M. Pannekoek, C.E. Schillemans and A.B. van der Pol, advocaten,

– British American Tobacco International (Holdings) BV, by J.A.M. Mischie, M.J. Tuijp and H.J. van den Bos, advocaten,

– Stichting Rookpreventie Jeugd, by J.A.M.A. Sluysmans, advocaat,

– the Netherlands Government, by E.M.M. Besselink and M.K. Bulterman, acting as Agents,

– the Bulgarian Government, by S. Ruseva and R. Stoyanov, acting as Agents,

– the Czech Government, by T. Müller, M. Smolek and J. Vláčil, acting as Agents,

– the Hungarian Government, by M.Z. Fehér and K. Szíjjártó, acting as Agents,

– the Portuguese Government, by P. Barros da Costa, A. Cunha and C. Freire, acting as Agents,

– the European Commission, by T.S. Bohr, M. Burón Pérez, Ș. Ciubotaru, F. van Schaik and H. van Vliet, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 4 September 2025,

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Article 2(21), Article 3(1) and Article 4(1) 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/EC (OJ 2014 L 127, p. 1) and the interpretation of the principles of legal certainty and precision of the applicable law.

2 The request has been made in proceedings between the Nederlandse Voedsel- en Warenautoriteit (Netherlands Food and Consumer Product Safety Authority; 'the NVWA'), the Staatssecretaris van Volksgezondheid, Welzijn en Sport (State Secretary for Health, Welfare and Sport, Netherlands; 'the State Secretary'), Philip Morris Benelux BV, Philip Morris Investments BV, JT International Company Netherlands BV, Vereniging Nederlandse Sigaretten- & Kerftabakfabrikanten, Van Nelle Tabak Nederland BV and British American Tobacco International (Holdings) BV, of the one part, and the Stichting Rookpreventie Jeugd (Youth Smoking Prevention Foundation, Netherlands; 'the Foundation'), of the other part, concerning the method for measuring emission levels of tar, nicotine and carbon monoxide from cigarettes.

Legal context

European Union law

Regulation (EC) No 1049/2001

3 Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ 2001 L 145, p. 43) provides, in paragraph 2:

'The institutions shall refuse access to a document where disclosure would undermine the protection of:

– commercial interests of a natural or legal person, including intellectual property,

…

unless there is an overriding public interest in disclosure.'

Directive 2014/40

4 Recital 8 of Directive 2014/40 states:

'In accordance with Article 114(3) [TFEU], a high level of health protection should be taken as a base for legislative proposals and, in particular, any new developments based on scientific facts should be taken into account. Tobacco products are not ordinary commodities and in view of the particularly harmful effects of tobacco on human health, health protection should be given high importance, in particular, to reduce smoking prevalence among young people.'

5 Article 2(21) of that directive is worded as follows:

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

…

(21) "emissions" means substances that are released when a tobacco or related product is consumed as intended, such as substances found in smoke, or substances released during the process of using smokeless

tobacco products'.

6 Article 3(1) of Directive 2014/40 provides:

'The emission levels from cigarettes placed on the market or manufactured in the Member States ("maximum emission levels") shall not be greater than:

(a) 10 mg of tar per cigarette;

(b) 1 mg of nicotine per cigarette;

(c) 10 mg of carbon monoxide per cigarette.'

7 Under Article 4(1) and (2) of that directive:

'1. The tar, nicotine and carbon monoxide emissions from cigarettes shall be measured on the basis of ISO standard 4387 for tar, ISO standard 10315 for nicotine, and ISO standard 8454 for carbon monoxide.

The accuracy of the tar, nicotine and carbon monoxide measurements shall be determined in accordance with ISO standard 8243.

2. The measurements referred to in paragraph 1 shall be verified by laboratories which are approved and monitored by the competent authorities of the Member States.

Those laboratories shall not be owned or controlled directly or indirectly by the tobacco industry.

…'

8 Article 23 of Directive 2014/40 provides, in paragraph 2:

'Member States shall ensure that tobacco and related products which do not comply with this Directive, including the implementing and delegated acts provided for therein, are not placed on the market. …'

Netherlands law

9 Article 2.1 of the Besluit houdende samenvoeging van de algemene maatregelen van bestuur op basis van de Tabakswet tot één besluit (Tabaks- en rookwarenbesluit) (Decree merging general administrative measures based on the Law on tobacco into a single decree (Decree on tobacco and smoking products)) of 14 October 2015 (Stb. 2015, n° 398), provides, in paragraph 1:

'The maximum emission levels for cigarettes placed on the market or produced shall comply with Article 3(1) of [Directive 2014/40]'.

10 Article 2.1 of the Regeling van de Staatssecretaris van Volksgezondheid, Welzijn en Sport houdende regels inzake de productie, de presentatie en de verkoop van tabaksproducten en aanverwante producten (Tabaks- en rookwarenregeling) (Regulation of the State Secretary for Health, Welfare and Sport laying down rules on the manufacture, presentation and sale of tobacco products and related products (Ministerial Regulation on tobacco and smoking products)) of 10 May 2016 (Stcrt. 2016, n° 25446), is worded as follows:

'1. Examination methods which, alone, determine whether a cigarette meets the requirements of Article 2.1(1) of the Decree shall be designated as measures meeting the following standards:

(a) NEN-ISO 4387:2000/A1:2008 Cigarettes – Determination, as regards the emission level for tar, of the total particulate matter and nicotine-free anhydrous particulate matter content by means of a routine analytical smoking machine;

(b) NEN-ISO 10315:2013 Cigarettes – Determination, as regards the emission level for nicotine, of the nicotine content in smoke condensates – Method by gas chromatography;

(c) NEN-ISO 8454:2007/A1:2009 Cigarettes – Determination, as regards the emission level for carbon monoxide, of the carbon monoxide content in the gaseous phase of cigarette smoke – IRND method.

2. The results of the measurements must be checked against standard NEN-ISO 8243:2013 Cigarettes – Sampling.'

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

11 By letter of 31 July 2018, the Foundation requested the NVWA to ensure that filter cigarettes offered for sale to consumers in the Netherlands complied, when used as intended, with the maximum emission levels for tar, nicotine and carbon monoxide laid down in Article 3(1) of Directive 2014/40. The Foundation also requested the NVWA to order manufacturers, importers and distributors of tobacco products, by means of an administrative enforcement measure, to withdraw from the market filter cigarettes which did not comply with those maximum emission levels.

12 That request for an order was based on a study by the Rijksinstituut voor Volksgezondheid en Milieu (National Institute for Public Health and the Environment, Netherlands) of 13 June 2018, which is said to show that, when the 'Canadian Intense' measurement method is applied rather than the method prescribed in Article 4 of Directive 2014/40, all filter cigarettes sold in the Netherlands appreciably exceed the maximum emission levels for tar, nicotine and carbon monoxide laid down in Article 3(1) of that directive. The Foundation argues that the measurement method provided for in ISO standards 4387, 10315, 8454 and 8243, referred to in Article 4(1) of Directive 2014/40, fails to take account of the fact that, in practice, the micro-perforations in cigarette filters are obstructed by the smoker's fingers and lips and that the smoker thus inhales significantly higher quantities of tar, nicotine and carbon monoxide than the maximum emission levels laid down in Article 3 of that directive.

13 By decision of 20 September 2018, the NVWA refused the request for an order. By decision of 31 January 2019, the State Secretary dismissed as unfounded the administrative objection filed by the Foundation against the NVWA's decision.

14 The Foundation subsequently brought an action challenging the State Secretary's decision before the Rechtbank Rotterdam (District Court, Rotterdam, Netherlands).

15 The Foundation argued before that court that Article 4(1) of Directive 2014/40 does not require a particular method of measuring emission levels to be used and that the ISO standards, on the basis of which the emissions at issue are to be measured under that provision, are not requirements of general application, with the result that it would be appropriate to use the 'Canadian Intense' measurement method.

16 In the course of its consideration of the action referred to in paragraph 14 above, that court made a request to the Court of Justice for a preliminary ruling on the interpretation and validity of certain provisions of Directive 2014/40, which gave rise to the judgment of 22 February 2022, *Stichting Rookpreventie Jeugd and Others* (C-160/20, EU:C:2022:101).

17 According to the referring court, following that judgment, the Rechtbank Rotterdam (District Court, Rotterdam) held that the NEN-ISO standards referred to in the Regulation of the State Secretary for Health, Welfare and Sport laying down rules on the manufacture, presentation and sale of tobacco products and related products (Ministerial Regulation on tobacco and smoking products) are not binding on the Foundation as a member of the public generally, and that the method for measuring emission levels described in those standards is not consistent with Directive 2014/40 because it does not measure the emission levels generated when a cigarette is consumed as intended. In the absence of measurement methods that are consistent with Directive 2014/40, it is not possible to determine whether filter cigarettes sold in the Netherlands comply with the maximum emission levels. In the light of the study conducted by the National Institute for Public Health and the Environment, referred to in paragraph 12 above, it is highly likely that, when the 'Canadian Intense' measurement method is used, cigarettes do not comply with the maximum emission levels. Accordingly, the Rechtbank Rotterdam (District Court, Rotterdam) upheld the Foundation's action and ordered NVWA to adopt a new decision with a view to making an order.

18 An appeal was brought against that judgment of the Rechtbank Rotterdam (District Court, Rotterdam) before the College van Beroep voor het bedrijfsleven (Supreme Administrative Court for Trade and Industry, Netherlands), which is the referring court.

19 The referring court considers that certain aspects of Articles 3 and 4 of Directive 2014/40 still require clarification in the light of the judgment of 22 February 2022, *Stichting Rookpreventie Jeugd and Others* (C-160/20, EU:C:2022:101).

20 It points out, in the first place, that the Court draws a distinction between, on the one hand, undertakings against which the ISO standards referred to in Article 4(1) of Directive 2014/40 are enforceable where they have access to the official and authentic version of those standards and, on the other hand, the public generally, against whom those standards cannot be enforced if they have not been published in the *Official Journal of the European Union*. In that regard, the referring court is uncertain as to the boundaries of the concept of 'the public generally'. It observes, inter alia, that 'the public generally' includes certain individuals, such as the Foundation, who, as provided for by Netherlands law, were able to acquaint themselves with the content of the ISO standards by consulting the NEN-ISO standards at the library of the Nederlands Normalisatie Instituut in Delft (Netherlands Standardisation Institute, Delft) or against payment of a fee. In that context, it is not clear whether the ISO standards are enforceable against such individuals. The referring court considers, in any event, that the ISO standards at issue in the main proceedings cannot be enforced against the Foundation, which defends the interests of individuals who do not have access to those standards, since procuring them in a procedure such as that in the main proceedings cannot amount to publication in the *Official Journal of the European Union*.

21 In the second place, the referring court submits a number of questions concerning the circumstances in which the ISO standards referred to in Article 4(1) of Directive 2014/40 should be regarded as not enforceable against an individual, such as the Foundation, and in which an alternative measurement method to those provided for in those standards could, or should, be used.

22 In that regard, it enquires, in particular, about the competence of each Member State to establish, even temporarily, an alternative measurement method and, should the case arise, about the relationship between such a method and the objectives of harmonisation and the functioning of the internal market pursued by Directive 2014/40. It also has doubts as to what the consequences would be of the ISO standards referred to in Article 4(1) of that directive not being enforceable against an individual such as the Foundation, in particular as regards the possible withdrawal from the market of filter cigarettes which do not comply with the maximum emission levels as a result of applying an alternative measurement method prescribed by a national authority.

23 In those circumstances, the College van Beroep voor het bedrijfsleven (Supreme Administrative Court for Trade and Industry) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

'(1) Is Article 4(1) of Directive [2014/40] to be interpreted as meaning that ISO standards not published in the *Official Journal of the European Union* cannot, without exception, be enforced against individuals, including the Foundation, even if that individual was able to inspect those standards and obtain them (against payment)?

(2) Is the unenforceability of Article 4(1) of Directive [2014/40] against individuals, in so far as that provision refers to ISO standards not published in the *Official Journal of the European Union*, to be understood as meaning that it is not permitted to refuse the right to respect the maximum emission levels for tar, nicotine and carbon monoxide laid down in Article 3(1) of the Directive?

(3) Is the expression "consumed as intended", which is included in the definition of "emissions" in Article 2(21) of Directive [2014/40], to be interpreted as meaning that it is approximated as closely as possible to human smoking behaviour, in which case the measurement would have to take into account the at least partial covering of the micro-ventilation holes in the cigarette filter and/or the volume and frequency of smoke, or does that expression refer only to the method of consuming cigarettes through a process of combustion?

(4) If, in view of the answer to question 3, the ISO standards referred to in Article 4(1) of Directive [2014/40] are not suitable for measuring emission levels:

(a) does a high level of public health protection, in particular for young people, which Directive [2014/40] includes as one of its objectives, mean that the principles of legal certainty and legal precision of the applicable law do not preclude an alternative method of measurement from being enforced against tobacco manufacturers?

If, also having regard to the principles of legal certainty and legal precision of the applicable law, question 4(a) is answered in the affirmative:

(b) are Member States authorised to establish or apply an alternative measurement method themselves, whether temporarily or otherwise, and to enforce this alternative measurement method (also) against tobacco manufacturers, and

(c) how does the application of an alternative measurement method relate to the (maximum) harmonisation and improved functioning of the internal market, which Directive [2014/40] includes amongst its objectives?

(5) (a) In the event that an alternative measurement method has to be applied, do the maximum emission levels of Article 3(1) of Directive [2014/40] remain fully applicable?

If question 5(a) is answered in the negative:

(b) are Member States authorised to adopt or apply themselves, whether temporarily or otherwise, alternative maximum emission levels and to enforce these (also) against tobacco manufacturers, and

(c) how does the application of alternative maximum emission levels relate to the (maximum) harmonisation and improved functioning of the internal market, which Directive [2014/40] includes amongst its objectives?

(6) (a) If Member States are authorised to adopt or implement an alternative measurement method and that method can be enforced against tobacco manufacturers, in that case, does a high level of public health protection, in particular for young people, which Directive [2014/40] includes amongst its objectives, in combination with Article 23(2) of [that directive], mean in that case that cigarettes on the market in the Netherlands must be withdrawn from the market until a new measurement method has been established, such that it cannot be determined whether the cigarettes consumed as intended comply with the maximum emission levels?

If question 6(a) is answered in the affirmative:

(b) are tobacco manufacturers entitled to a transitional period in that case?

(7) If an alternative measurement method has been established or implemented, whether or not in combination with alternative maximum emission levels, are tobacco manufacturers in that case entitled to a transitional period during which they can adapt to that alternative measurement method and any alternative maximum emission levels?'

Consideration of the questions referred

The first question

Admissibility

24 The Bulgarian Government submits that the first question is inadmissible because it is hypothetical. It argues that that question concerns all ISO standards not published in the *Official Journal of the European Union*, whereas Article 4(1) of Directive 2014/40 refers to only four specifically identified ISO standards.

25 According to settled case-law, questions relating to EU law enjoy a presumption of relevance. The Court may refuse to rule on a question referred by a national court for a preliminary ruling only where it is quite obvious that the interpretation of EU law that is sought bears no relation to the actual facts of the main action or its purpose, where the problem is hypothetical, or where the Court does not have before it the factual or legal material necessary to give a useful answer to the questions submitted to it (judgment of 23 November 2021, *IS (Illegality of the order for reference)*, C-564/19, EU:C:2021:949, paragraph 61 and the case-law cited).

26 In that regard, it is apparent both from the wording of the first question, which concerns the interpretation of Article 4(1) of Directive 2014/40, and from the reasoning relating to that question, summarised in paragraph 20 above, that the first question is concerned not with all ISO standards not published in the *Official Journal of the European Union*, but only with those referred to in that provision.

27 In the dispute in the main proceedings, it will be necessary to determine whether the access of individuals, such as the Foundation, to the ISO standards referred to in Article 4(1) of Directive 2014/40 is such as to preclude them from relying on measurement methods other than those prescribed by those standards, as a means of having a court make a declaration of non-compliance as regards the emission levels of substances in cigarettes manufactured or placed on the market in the Member States, by undertakings, on the basis of that directive. Consequently, since the issue raised in the first question is not hypothetical for the resolution of the dispute, that question is admissible.

Substance

28 By its first question, the referring court asks, in essence, whether Article 4(1) of Directive 2014/40 must be interpreted as meaning that the ISO standards referred to in that provision are enforceable against individuals who have had access to the content of the official and authentic version of those standards, even though they have not been published in the *Official Journal of the European Union*.

29 In that regard, it should be borne in mind that, in paragraph 33 of the judgment of 22 February 2022, *Stichting Rookpreventie Jeugd and Others* (C-160/20, EU:C:2022:101), the Court ruled that Article 4(1) of Directive 2014/40 is to be interpreted as providing that the maximum emission levels for tar, nicotine and carbon monoxide from cigarettes intended to be placed on the market or manufactured in the Member States, prescribed in Article 3(1) of that directive, must be measured in accordance with the measurement methods arising from ISO standards 4387, 10315, 8454 and 8243, to which Article 4(1) refers.

30 In paragraph 50 of that judgment, the Court also held that Article 4(1) of Directive 2014/40 seeks to impose an obligation on undertakings intending to place cigarettes on the markets of the Member States or to manufacture cigarettes. Those undertakings may neither place on the markets of the Member States nor manufacture cigarettes whose levels of tar, nicotine and carbon monoxide emissions exceed the maximum emission levels prescribed in Article 3(1) of that directive, as measured by applying the measurement methods provided for in the ISO standards referred to in Article 4(1) thereof.

31 In that judgment, the Court observed that acts adopted by the EU institutions cannot be enforced against natural and legal persons in a Member State before they have had the opportunity to make themselves acquainted with those acts by their proper publication in the *Official Journal of the European Union*. That publication requirement flows from the principle of legal certainty, under which EU rules must enable those concerned to ascertain unequivocally what their rights and obligations are. The Court concluded from this that, in accordance with that principle, technical standards determined by a standards body, such as the International Organisation for Standardisation (ISO), and made mandatory by a legislative act of the European Union, such as Directive 2014/40, are binding on the public generally only if they themselves have been published in the *Official Journal of the European Union* (see, to that effect, judgment of 22 February 2022, *Stichting Rookpreventie Jeugd and Others*, C-160/20, EU:C:2022:101, paragraphs 40, 41 and 48 and the case-law cited).

32 Although the ISO standards referred to in Article 4(1) of Directive 2014/40 were not published in the *Official Journal of the European Union*, the Court took the view that account had to be taken of the specific features of the system established by the ISO, which consists of a network of national standards bodies, enabling those national bodies to grant, upon request, access to the official and authentic version of the standards determined by the ISO. Accordingly, where undertakings have access to the official and authentic version of the ISO standards referred to in Article 4(1) of Directive 2014/40, those standards and, therefore, the reference made thereto by that provision are binding on them (judgment of 22 February 2022, *Stichting Rookpreventie Jeugd and Others*, C-160/20, EU:C:2022:101, paragraphs 51 and 52).

33 The Court has also held that harmonised standards drawn up within the framework of the European standardisation system may, by the effects conferred on them by EU legislation, specify the rights conferred on individuals as well as their obligations and that those specifications may be necessary for them to verify whether a given product or service actually complies with the requirements of that legislation (judgment of 5 March 2024, *Public.Resource.Org and Right to Know* v *Commission and Others*, C-588/21 P, EU:C:2024:201, paragraph 82). The same is true, in principle, of standards which, like the ISO standards referred to in

Article 4(1) of Directive 2014/40, are drawn up at international level and are made mandatory in the EU legal order by an express reference thereto in an EU act.

34 It is from that perspective that the Court has held that the principle of the rule of law – on which, under Article 2 TEU, the European Union is founded – requires free access to EU law for all natural or legal persons of the European Union. That requirement concerns, in particular, persons whose interests are protected by an EU act and who must thus be able to verify, within the limits permitted by EU law, first, that the persons on whom obligations are imposed by that act actually comply with those obligations (see, to that effect, judgment of 5 March 2024, *Public.Resource.Org and Right to Know* v *Commission and Others*, C-588/21 P, EU:C:2024:201, paragraph 81) and, secondly, that that act is consistent, inter alia, with the EU and FEU Treaties and with the general principles of EU law (see, to that effect, judgments of 5 November 2019, *ECB and Others* v *Trasta Komercbanka and Others*, C-663/17 P, C-665/17 P and C-669/17 P, EU:C:2019:923, paragraph 54, and of 13 July 2023, *Grupa Azoty and Others* v *Commission*, C-73/22 P and C-77/22 P, EU:C:2023:570, paragraph 71 and the case-law cited).

35 In the present case, it should be pointed out, first, that Directive 2014/40 pursues a twofold objective of facilitating the smooth functioning of the internal market for tobacco and related products while taking as a base a high level of protection of human health, especially for young people. As is also apparent from recital 8 of that directive, the maximum emission levels for tar, nicotine and carbon monoxide laid down in Article 3(1) of that directive and the ISO standards prescribing the methods for measuring the emission levels of those substances, to which Article 4(1) of that directive refers, pursue that twofold objective, contrary to what Philip Morris Benelux and Philip Morris Investments claim, and not only the objective of facilitating the smooth functioning of the internal market. In particular, it is in order to protect human health that maximum emission levels and emission measurement methods have been established at EU level (see, to that effect, judgment of 22 February 2022, *Stichting Rookpreventie Jeugd and Others*, C-160/20, EU:C:2022:101, paragraphs 32 and 78).

36 Secondly, subject to confirmation by the referring court, the Foundation's actions appear to fall within the scope of that objective of protecting human health, so that it may be regarded, for the purposes of the dispute in the main proceedings, as defending an interest protected by Directive 2014/40.

37 Consequently, in accordance with the case-law cited in paragraph 34 above, an individual such as the Foundation must be able to verify whether cigarettes manufactured and placed on the market, by undertakings, in the Member States comply with the emission levels laid down in Article 3(1) of Directive 2014/40, in the light of the measurement methods prescribed by the ISO standards referred to in Article 4(1) of that directive, which requires such an individual to have free access to those standards.

38 In compliance with the principle of the rule of law set out in Article 2 TEU, access to the content of those standards must, if it is to be regarded as free, be general, effective, without charge and non-discriminatory. The guarantee of such access to standards drawn up at international level and made mandatory in the EU legal order is essential in order to enable an individual such as the Foundation – which relies, in the main proceedings, on an interest protected by an EU act making those standards mandatory – to acquaint itself with those standards and, where necessary, to have the competent national authorities and, if need be, the Courts of the European Union review whether they have been duly observed in full.

39 That means, inter alia, that there is an overriding public interest, within the meaning of the last limb of Article 4(2) of Regulation No 1049/2001, in the disclosure of such standards in the context of a request for access to documents made under that regulation by an individual such as the Foundation. Even if those standards were protected by intellectual property rights, that interest should prevail over such rights claimed, as the case may be, by the standardisation body concerned, in accordance with the right of access to documents, guaranteed under the first subparagraph of Article 15(3) TFEU, enshrined in Article 42 of the Charter of Fundamental Rights of the European Union and implemented by Regulation No 1049/2001 (see, to that effect, judgment of 5 March 2024, *Public.Resource.Org and Right to Know* v *Commission and Others*, C-588/21 P, EU:C:2024:201, paragraphs 84 and 85).

40 In so far as the EU legislature imposes obligations in relation to standards such as those referred to in paragraphs 33 and 38 above and seeks to protect the corresponding interests of individuals, such as human

health, it is for the European Union to bear the costs associated with creating access to the official and authentic version of those standards; the question whether access to the content of those standards is to be ensured using the logistical, administrative and technical resources of the European Union or of the Member States is irrelevant.

41 In the present case, it is common ground that all the parties to the main proceedings, by virtue of their access to the national NEN-ISO standards, had access to the content of the official and authentic version of the ISO standards referred to in Article 4(1) of Directive 2014/40 and that they were indeed acquainted with those standards. They were therefore able effectively to rely on those ISO standards before the national courts with jurisdiction.

42 It follows that an individual who, like the Foundation, has had access to the content of the official and authentic version of the ISO standards concerned cannot – in order to have a court make a declaration of non-compliance as regards the emission levels of substances in cigarettes manufactured or placed on the market, by undertakings, in the Member States – rely on measurement methods other than those prescribed by those ISO standards.

43 Accordingly, the answer to the first question is that Article 4(1) of Directive 2014/40 must be interpreted as meaning that individuals who have had access to the content of the official and authentic version of the ISO standards to which that provision refers cannot rely on the fact that those standards were not published in the *Official Journal of the European Union* in order to have the emission levels for tar, nicotine and carbon monoxide measured using measurement methods other than those provided for in those standards, standards that must be freely accessible under a system of access which is general, effective, without charge and non-discriminatory.

The second to seventh questions

44 In the light of the answer given to the first question and having regard to the fact that all the parties to the main proceedings had access to the ISO standards concerned, there is no need to answer the second to seventh questions.

Costs

45 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 (Grand Chamber) hereby rules:

Article 4(1) 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/EC

must be interpreted as meaning that individuals who have had access to the content of the official and authentic version of the ISO standards to which that provision refers cannot rely on the fact that those standards were not published in the *Official Journal of the European Union* in order to have the emission levels for tar, nicotine and carbon monoxide measured using measurement methods other than those provided for in those standards, standards that must be freely accessible under a system of access which is general, effective, without charge and non-discriminatory.

[Signatures]

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* Language of the case: Dutch.

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