

Case C-350/92 Spain v Council [1995] ECR I-01985

Facts: The case asked questions about the scope of the internal market competence (Art 114 TFEU, ex-Art 95 TEC). Under the Article, the EU is entitled to adopt measures for the approximation of national laws ‘which have as their object the establishment and functioning of the internal market.’ The issue at hand was whether the EU could create a legislative framework concerning supplementary protection certificates for medicinal products. Spain challenged the legislation, arguing that the Council was mistaken to have relied on Article 114 TFEU.

Held: The Court held that Art 114 could also be used to prevent ‘heterogeneous development of national laws leading to further disparities’ [35] not only when a divergence of national laws already exists. This resulted in a widened interpretation of the internal market competence.