

EU Advocate General to issue his recommendation in my case on September 29

[March 15, 2020 | The Grand Chamber of the European Court of Justice, composed of 15 judges, today held the oral hearings on the questions referred by the Bundesverwaltungsgericht \(Federal Administrative Court\) in my case against Hessischer Rundfunk regarding their refusal to accept payment in cash. The Advocate General announced that he would issue his recommendation on September 20.](#)

Besides the plaintiff in the original case (myself), and Hessischer Rundfunk, the following parties had representatives at the hearing: German government, French government, EU-Commission, European Central Bank (ECB). The Italian government had filed an opinion, but was not present at the hearing. The hearing lasted about three and a half hours. Judges did not give much indication on how they are likely to rule.

While the German, French and Italian governments argued that limitations on the use of the legal tender euro banknotes and coins do not affect monetary policy and thus are in the purview of national policies, the ECB and the commission argued that this belonged to monetary policy and was thus an exclusive competency of the EU legislator. The commission held that §14 (1) 2 Law of the Bundesbank which declares euro banknotes to be the only unlimited legal tender is thus not applicable. This would mean that the Bundesverwaltungsgericht could not issue a ruling based on §14 of this law, but rather would have to refer to EU law and follow the indications of the European Court of Justice on how to interpret EU law.

The Bundesverwaltungsgericht had indicated that in its opinion, German law required public authorities to accept cash. The EU-commission to the contrary favours an interpretation of EU-law, which would set very low threshold for limitations of the use of cash for public policy reasons.

The ECB, however, sees room for the law on the Bundesbank to require subnational levels of government to accept cash. If the court followed this line of argument, the Bundesverwaltungsgericht could rule that due §14 Law of the Bundesbank all subnational authorities, including Hessischer Rundfunk, have to accept cash. Obviously, if the court followed the line of reasoning of the national government, which seems unlikely, the same would be true. The ECB would set a much higher threshold for justifications of limitations on the use of cash with public policy reasons than the Commission.

More on the subject

<https://norberthaering.de/en/war-on-cash/archival-documents-cash-limits/>