



## Interpretation of European Court of Justice Judgement C-142/2020, May 2021

ILAC has obtained legal advice on the interpretation of the judgement of the European court ("**Judgement**") in relation to the provisions of Regulation 765/2008 ("**Regulation**").

The Judgement states that the provisions of the Regulation:

*“do not allow a conformity assessment body to submit an application for accreditation to a national accreditation body other than that of the Member State in which it is established. Nor do those provisions allow a conformity assessment body to obtain accreditation from a body established in a third State for the purpose of carrying out its activity in the European Union.”*

The Judgement does not provide any guidance or clarity on what the court exactly means with: 'not allowed'. This wording refers back to the provisions of the Regulation that state that CABs shall request accreditation with the national AB. This implies that accreditations by a third country (non-EU) AB are not accepted and/or recognized in the EU. However, the European Court did not find in this judgement that the accreditation of a CAB based in the EU, by a third country AB is to be considered an 'illegal' or 'unlawful' activity. (*NautaDutilh N.V - June 2022*)

ILAC notes, however, that accreditation of a CAB based in the EU by a third country AB for the purposes of making products/services available on the EU market, when that CAB has not been accredited by a (European) national AB, may be deemed as illegal/unlawful according to other EU or national regulation/legislation.

This implies that a CAB established in the EU shall apply for accreditation to its NAB, unless there is a legislation in a third country which requires certificates issued by a CAB accredited by a third country AB for the purpose of making products/services available in the third country.

*[Third country ABs and CABs based in the EU may face administrative or criminal sanctions in certain EU Member States according to national legislation.]*

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AB: Accreditation body

CAB: Conformity assessment body

EU: European Union

NAB: National accreditation body