Questions referred

1. Is Article 77(1) of Regulation (EU) 2016/679 ([1]) ('GDPR'), read in conjunction with Article 78(1) thereof, to be understood as meaning that the outcome that the supervisory authority reaches and notifies to the data subject

   (a) has the character of a decision on a petition? This would mean that judicial review of a decision on a complaint taken by a supervisory authority in accordance with Article 78(1) of the GDPR is, in principle, limited to the question of whether the authority has handled the complaint, investigated the subject matter of the complaint to the extent appropriate and informed the complainant of the outcome of the investigation,

   or

   (b) is to be understood as a decision on the merits taken by a public authority? This would mean that a decision on a complaint taken by a supervisory authority would be subject to a full substantive review by the court in accordance with Article 78(1) of the GDPR, whereby, in individual cases — for example where discretion is reduced to zero — the supervisory authority may also be obliged by the court to take a specific measure within the meaning of Article 58 of the GDPR.

2. Is the storage of data at a private credit information agency, where personal data from a public register, such as the 'national databases' within the meaning of Article 79(4) and (5) of Regulation (EU) 2015/848, ([2]) are stored without a specific reason in order to be able to provide information in the event of a request, compatible with Articles 7 and 8 of the Charter of Fundamental Rights of the European Union?

3. (a) Are private databases (in particular databases of a credit information agency) which exist in parallel with, and are set up in addition to, the State databases and in which the data from the latter (*in casu*, insolvency announcements) are stored for longer than the period provided for within the narrow framework of Regulation (EU) 2015/848, read in conjunction with the national law, permissible in principle?

   (b) If Question 3a is answered in the affirmative, does it follow from the 'right to be forgotten' under Article 17(1)(d) of the GDPR that such data must be deleted where the processing period provided for in respect of the public register has expired?

4. In so far as point (f) of Article 6(1) of the GDPR enters into consideration as the sole legal basis for the storage of data at private credit information agencies with regard to data also stored in public registers, is a credit information agency already to be regarded as pursuing a legitimate interest in the case where it imports data from the public register without a specific reason so that those data are then available in the event of a request?

5. Is it permissible for codes of conduct which have been approved by the supervisory authorities in accordance with Article 40 of the GDPR, and which provide for time limits for review and erasure that exceed the retention periods for public registers, to suspend the balancing of interests prescribed under point (f) of Article 6(1) of the GDPR?

([1]) Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ 2016 L 119, p. 1).

([2]) Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (OJ 2015 L 141, p. 19).

Action brought on 8 February 2022 — European Commission v Republic of Bulgaria

(Case C-85/22)

(2022/C 148/24)

Language of the case: Bulgarian

Parties

Applicant: European Commission (represented by: Gr. Koleva, C. Hermes)

Defendant: Republic of Bulgaria

Form of order sought

The applicant claims that the Court should:

(1) declare that the Republic of Bulgaria has failed to fulfil its obligations under Article 4(4) and Article 6(1) of Directive 92/43/EEC ([1]) on the conservation of natural habitats and of wild fauna and flora ('the Habitats Directive'), by:

— failing to designate as soon as possible and within six years at most as special areas of conservation ('SACs') 194 out of a total of 229 sites of Community importance ('SCIs'), adopted by Decisions 2009/93/EC, 2009/91/EC and 2009/92/EC of 12 December 2008 and Decision 2013/23/EU of 16 November 2012;

— systematically and persistently failing to fulfil its obligation to set detailed site-specific conservation objectives;

— systematically and persistently failing to fulfil its obligation to establish the necessary conservation measures which correspond to the ecological requirements of the natural habitat types in Annex I and the species in Annex II present on the site, and

— failing correctly to transpose Article 6(1) into national law.

(2) order Bulgaria to pay the costs of the proceedings.

Pleas in law and main arguments

The present case concerns the incorrect transposition of Article 6(1) and the misapplication of Article 4(4) and Article 6(1) of the Habitats Directive on the part of Bulgaria.

Article 4(4) of the Habitats Directive requires, inter alia, once a given site has been adopted as a site of Community importance in accordance with the procedure laid down in paragraph 2 of that provision, that the Member State concerned designate it as an SAC as soon as possible and within six years at most. In the judgment in Case C-849/19, *Commission* v *Greece* (EU:C:2020:1047), the Court stated that the Member States are required also to set specific conservation objectives for each SAC. Article 6(1) of the Habitats Directive provides that in the context of SACs, Member States are to establish the necessary conservation measures involving, if need be, appropriate management plans specifically designed for the sites or integrated into other development plans, and appropriate statutory, administrative or contractual measures which correspond to the ecological requirements of the natural habitat types in Annex I and the species in Annex II present on the sites.

According to the Commission, the Republic of Bulgaria has failed to fulfil its obligations under those provisions to designate SACs within the required time limit; to set detailed site-specific conservation objectives; to establish the necessary conservation measures; and correctly to transpose into national law Article 6(1) of the Habitats Directive.

([1]) OJ 1992 L 206, p. 7.

Action brought on 15 February 2022 — European Commission v Romania

(Case C-109/22)

(2022/C 148/25)

Language of the case: Romanian

Parties

Applicant: European Commission (represented by: L. Nicolae and E. Sanfrutos Cano, acting as Agents)

Defendant: Romania

Form of order sought

The Commission claims that the Court should:

— declare that, by failing to take all the measures necessary to comply with the judgment of the Court in Case C-301/17, *Commission* v *Romania*, ([1]) Romania has failed to fulfil its obligations under Article 260(1) TFEU;