2. *The fact that the context in a Member State may be one of acute economic crisis and a particularly high unemployment rate is not such as to affect the answers set out in point 1 of this operative part.*

([1]) OJ C 221, 6.7.2015.

Judgment of the Court (Grand Chamber) of 21 December 2016 (requests for a preliminary ruling from the Kammarrätten i Stockholm and the Court of Appeal (England & Wales) (Civil Division) — Sweden, United Kingdom) — Tele2 Sverige AB v Post- och telestyrelsen (C-203/15), Secretary of State for the Home Department v Tom Watson, Peter Brice, Geoffrey Lewis (C-698/15)

(Joined Cases C-203/15 and C-698/15) ([1])

(Reference for a preliminary ruling — Electronic communications — Processing of personal data — Confidentiality of electronic communications — Protection — Directive 2002/58/EC — Articles 5, 6 and 9 and Article 15(1) — Charter of Fundamental Rights of the European Union — Articles 7, 8 and 11 and Article 52(1) — National legislation — Providers of electronic communications services — Obligation relating to the general and indiscriminate retention of traffic and location data — National authorities — Access to data — No prior review by a court or independent administrative authority — Compatibility with EU law)

(2017/C 053/13)

Languages of the case: Swedish and English

Referring courts

Kammarrätten i Stockholm, the Court of Appeal (England & Wales) (Civil Division)

Parties to the main proceedings

Appellants: Tele2 Sverige AB (C-203/15), Secretary of State for the Home Department (C-698/15)

Respondents: Post- och telestyrelsen (C-203/15), Tom Watson, Peter Brice, Geoffrey Lewis (C-698/15)

Interveners: Open Rights Group, Privacy International, The Law Society of England and Wales

Operative part of the judgment

1. *Article 15(1) of Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications), as amended by Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009, read in the light of Articles 7, 8 and 11 and Article 52(1) of the Charter of Fundamental Rights of the European Union, must be interpreted as precluding national legislation which, for the purpose of fighting crime, provides for general and indiscriminate retention of all traffic and location data of all subscribers and registered users relating to all means of electronic communication.*

2. *Article 15(1) of Directive 2002/58, as amended by Directive 2009/136, read in the light of Articles 7, 8 and 11 and Article 52 (1) of the Charter of Fundamental Rights, must be interpreted as precluding national legislation governing the protection and security of traffic and location data and, in particular, access of the competent national authorities to the retained data, where the objective pursued by that access, in the context of fighting crime, is not restricted solely to fighting serious crime, where access is not subject to prior review by a court or an independent administrative authority, and where there is no requirement that the data concerned should be retained within the European Union.*

3. *The second question referred by the Court of Appeal (England & Wales) (Civil Division) is inadmissible.*

(1) OJ C 221, 6.7.2015
OJ C 98 14.3.2016.

Judgment of the Court (Fourth Chamber) of 21 December 2016 (request for a preliminary ruling from the Court of Appeal (England & Wales) (Civil Division) — United Kingdom) — Swiss International Air Lines AG v The Secretary of State for Energy and Climate Change, Environment Agency

(Case C-272/15) (1)

(Reference for a preliminary ruling — Directive 2003/87/EC — Scheme for greenhouse gas emission allowance trading — Obligation to surrender emission allowances in respect of flights between EU Member States and most third countries — Decision No 377/2013/EU — Article 1 — Temporary derogation — Exclusion of flights to and from airports situated in Switzerland — Difference of treatment of third countries — General principle of equal treatment — Inapplicable)

(2017/C 053/14)

Language of the case: English

Referring court

Court of Appeal (England & Wales) (Civil Division)

Parties to the main proceedings

Appellant: Swiss International Air Lines AG

Respondents: The Secretary of State for Energy and Climate Change, Environment Agency

Operative part of the judgment

Examination in the light of the principle of equal treatment of Decision No 377/2013/EU of the European Parliament and of the Council of 24 April 2013 derogating temporarily from Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Community has disclosed nothing to affect the validity of that decision in so far as the temporary derogation provided for in Article 1 of that decision from the requirements laid down in Article 12(2a) and Article 16 of Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC, as amended by Directive 2008/101/EC of the European Parliament and of the Council of 19 November 2008, with respect to the surrender of greenhouse gas emission allowances in respect of flights operated in 2012 between Member States of the European Union and most third countries, does not apply to, inter alia, flights to and from airports situated in Switzerland.

(1) OJ C 279, 24.8.2015.