

Action brought on 26 April 2018 — European Commission v Portuguese Republic**(Case C-290/18)**

(2018/C 249/20)

*Language of the case: Portuguese***Parties***Applicant:* European Commission (represented by: P. Costa de Oliveira and C. Hermes, Agents)*Defendant:* Portuguese Republic**Form of order sought**

The applicant claims that the Court of Justice should:

- declare that the Portuguese Republic has failed to fulfil its obligations under Article 4(4) of Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora, ⁽¹⁾ in not designating as special areas of conservation as soon as possible, and within six years at most, seven sites of Community importance for the Atlantic biogeographical region recognised by Commission Decision 2004/813/EC of 7 December 2004 ⁽²⁾ and 54 sites of Community importance for the Mediterranean biogeographical region recognised by Commission Decision 2006/613/EC of 19 July 2006; ⁽³⁾
- declare that the Portuguese Republic has failed to fulfil its obligations under Article 6(1) of Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora, in not adopting 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 seven sites of Community importance for the Atlantic biogeographical region recognised in Commission Decision 2004/813/EC of 7 December 2004, and on the 54 sites of Community importance for the Mediterranean biogeographical region recognised by Commission Decision 2006/613/EC of 19 July 2006;
- order the Portuguese Republic to pay the costs.

Pleas in law and main arguments

Under Article 4(4) of Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora, the Portuguese Republic ought to have designated as special areas of conservation seven sites of Community importance for the Atlantic biogeographical region, recognised by Commission Decision 2004/813/EC of 7 December 2004, and 54 sites of Community importance for the Mediterranean biogeographical region, recognised by Commission Decision 2006/613/EC of 19 July 2006, within six years at most from the date on which those decisions were adopted. The period referred to expired on 7 December 2010 and 19 July 2012, respectively. However, the Portuguese Republic has still not designated the sites of Community importance as special areas of conservation.

Article 6(1) of Directive 92/43/EEC requires the Member States to establish, for special areas of conservation, 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.

The Commission considers the measures adopted by the Portuguese Republic, in particular, the Natura 2000 Network sectoral plan, as well as other measures referred to by the Portuguese authorities, do not correspond to the ecological requirements of the natural habitat types in Annex I and the species in Annex II of the Directive and cannot, therefore, be considered 'necessary conservation measures', within the meaning of Article 6(1) of the Directive.

- ⁽¹⁾ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ 1992 L 206, p. 7).
- ⁽²⁾ Commission Decision 2004/813/EC of 7 December 2004 adopting, pursuant to Council Directive 92/43/EEC, the list of sites of Community importance for the Atlantic biogeographical region (OJ 2004 L 387, p. 1).
- ⁽³⁾ Commission Decision 2006/613/EC of 19 July 2006 adopting, pursuant to Council Directive 92/43/EEC, the list of sites of Community importance for the Mediterranean biogeographical region (OJ 2006 L 259, p. 1).

Reference for a preliminary ruling from the High Court (Ireland) made on 9 May 2018 — Data Protection Commissioner v Facebook Ireland Limited, Maximillian Schrems

(Case C-311/18)

(2018/C 249/21)

Language of the case: English

Referring court

High Court (Ireland)

Parties to the main proceedings

Applicant: Data Protection Commissioner

Defendants: Facebook Ireland Limited, Maximillian Schrems

Questions referred

1. In circumstances in which personal data is transferred by a private company from a European Union (EU) member state to a private company in a third country for a commercial purpose pursuant to Decision 2010/87/EU ⁽¹⁾ as amended by Commission Decision 2016/2297 ⁽²⁾ ('the SCC Decision') and may be further processed in the third country by its authorities for purposes of national security but also for purposes of law enforcement and the conduct of the foreign affairs of the third country, does EU law (including the Charter of Fundamental Rights of the European Union ('the Charter')) apply to the transfer of the data notwithstanding the provisions of Article 4(2) of TEU in relation to national security and the provisions of the first indent of Article 3(2) of Directive 95/46/EC ⁽³⁾ ('the Directive') in relation to public security, defence and State security?
2. (1) In determining whether there is a violation of the rights of an individual through the transfer of data from the EU to a third country under the SCC Decision where it may be further processed for national security purposes, is the relevant comparator for the purposes of the Directive:
 - a) The Charter, TEU, TFEU, the Directive, ECHR (or any other provision of EU law); or
 - b) The national laws of one or more member states?(2) If the relevant comparator is b), are the practices in the context of national security in one or more member states also to be included in the comparator?