

3. If, on the basis of the answers to the first or the second question, the Cour constitutionnelle (Constitutional Court) should conclude that the contested law fails to fulfil one or more obligations arising under the provisions referred to in these questions, might it maintain on a temporary basis the effects of the Law of 29 May 2016 on the collection and retention of data in the electronic communications sector in order to avoid legal uncertainty and to enable the data previously collected and retained to continue to be used for the objectives pursued by the law?

⁽¹⁾ 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) (OJ 2002 L 201, p. 37).

⁽²⁾ 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).

**Request for a preliminary ruling from the Audiencia Nacional (Spain) lodged on 8 August 2018 —
Engie Cartagena, S.L. v Ministerio para la Transición Ecológica (formerly, Ministerio de Industria,
Energía y Turismo)**

(Case C-523/18)

(2018/C 408/53)

Language of the case: Spanish

Referring court

Audiencia Nacional

Parties to the main proceedings

Applicant: Engie Cartagena, S.L.

Defendant: Ministerio para la Transición Ecológica (formerly, Ministerio de Industria, Energía y Turismo)

Questions referred

1. Does the statutory provision laid down in the third additional provision of Real Decreto-Ley 14/2010 Financiación de planes de ahorro y eficiencia energética para los años 2011, 2012 y 2013 (Royal Decree-Law 14/2010 on the funding of savings and efficiency plans for the years 2011, 2012 and 2013) constitute a public service obligation for the purposes of Article 3(2) of Directives 2003/54/EC ⁽¹⁾ and 2009/72/EC ⁽²⁾:

¹. *The amounts payable from the electricity system for the purpose of funding the 2008-2012 Action Plan, approved [by] Acuerdo de Consejo de Ministros de 8 de julio de 2005, por el que se concretan las medidas del documento de “Estrategia de ahorro y eficiencia energética en España 2004-2012” aprobado por Acuerdo de Consejo de Ministros de 28 de noviembre de 2003 (Decision of the Council of Ministers of 8 July 2005 giving concrete expression to the measures referred to in the document entitled “Savings and Energy Efficiency Strategy in Spain, 2004-2012”, approved by Decision of the Council of Ministers of 28 November 2003), forecast for the years 2011 and 2012 as EUR 270 million and EUR 250 million respectively, shall be financed through a contribution from each generating undertaking in the proportions set out in the following table:*

Undertaking	Percentage
<i>Endesa Generación, S.A.</i>	34,66
<i>Iberdrola Generación, S.A.</i>	32,71
<i>GAS Natural S.D.G, S.A.</i>	16,37
<i>Hidroeléctrica del Cantábrico, S.A.</i>	4,38
<i>E.ON Generación, S.L.</i>	2,96
<i>AES Cartagena, S.R.L.</i>	2,07
<i>Bizkaia Energía, S.L.</i>	1,42
<i>Castelnou Energía, S.L.</i>	1,58
<i>Nueva Generadora del Sur, S.A.</i>	1,62
<i>Bahía de Bizkaia Electricidad, S.L.</i>	1,42
<i>Tarragona Power, S.L.</i>	0,81
Total	100,00'

2. If that provision does actually constitute a public service obligation, is that obligation clearly defined, transparent, non-discriminatory and verifiable?

⁽¹⁾ Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity and repealing Directive 96/92/EC — Statements made with regard to decommissioning and waste management activities (OJ 2003 L 176, p. 37).

⁽²⁾ Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC (OJ 2009 L 211, p. 55).

Appeal brought on 17 August 2018 by HX against the judgment of the General Court delivered on 19 June 2018 in Case T-408/16 HX v Council of the European Union

(Case C-540/18 P)

(2018/C 408/54)

Language of the case: Bulgarian

Parties

Appellant: HX (represented by S. Koev)

Other party to the proceedings: Council of the European Union

Form of order sought

The appellant claims that the Court should:

- Declare the present appeal to be admissible and well founded in its entirety and declare all the grounds of appeal set out in support of the present appeal to be well founded;
- Declare that the contested decision of the General Court under appeal may be annulled in its entirety;
- Set aside the entirety of judgment of the General Court of the European Union (Fifth Chamber) of 19 June 2018, *HX v Council*, T-408/16;