

Judgment of the Court (Fourth Chamber) of 3 December 2009 — European Commission v Federal Republic of Germany

(Case C-424/07) ⁽¹⁾

(Failure of a Member State to fulfil obligations — Electronic communications — Directive 2002/19/EC — Directive 2002/21/EC — Directive 2002/22/EC — Networks and services — National rules — New markets)

(2010/C 113/03)

Language of the case: German

Parties

Applicant: European Commission (represented by: G. Braun and A. Nijenhuis, Agents)

Defendant: Federal Republic of Germany (represented by: M. Lumma, Agent, C. Koenig, Professor and S. Loetz, Rechtsanwalt)

Re:

Failure of a Member State to fulfil obligations — Infringement of Article 8(4) of Directive 2002/19/EC of the European Parliament and of the Council of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive) (OJ 2002 L 108, p. 7), Articles 6, 7, 8(1), 15(3) and 16 of Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) (OJ 2002 L 108, p. 33), as well as Article 17(2) of Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive) (OJ 2002 L 108, p. 51) — Definition, analysis and regulation of new markets — National provisions defining 'new markets' in general and laying down restrictive conditions concerning regulation of those markets by the national regulatory authority as well as use of the consultation procedure provided for in Community law in connection with the definition and analysis of those markets

Operative part of the judgment

The Court:

1. Declares that, by adopting Paragraph 9a of the Law on Telecommunications (Telekommunikationsgesetz), of 22 June 2004, the Federal Republic of Germany has failed to fulfil its obligations under Article 8(4) of Directive 2002/19/EC of the European Parliament and of the Council of 7 March 2002 on access to,

and interconnection of, electronic communications networks and associated facilities (Access Directive), Articles 6 to 8(1) and (2), 15(3) and 16 of Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive), and Article 17(2) of Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive);

2. Orders the Federal Republic of Germany to pay the costs.

⁽¹⁾ OJ C 283, 24.11.2007.

Judgment of the Court (Grand Chamber) of 9 March 2010 — European Commission v Federal Republic of Germany

(Case C-518/07) ⁽¹⁾

(Failure of a Member State to fulfil obligations — Directive 95/46/EC — Protection of individuals with regard to the processing of personal data and the free movement of such data — Article 28(1) — National supervisory authorities — Independence — Administrative scrutiny of those authorities)

(2010/C 113/04)

Language of the case: German

Parties

Applicant: European Commission (represented by: C. Docksey, C. Ladenburger and H. Krämer, Agents)

Defendant: Federal Republic of Germany (represented by: M. Lumma and J. Möller, Agents)

Intervener in support of the applicant: European Data Protection Supervisor, (represented by: H. Hijmans and A. Scirocco, Agents)

Re:

Failure of a Member State to fulfil obligations — Infringement of the second sentence of Article 28(1) of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ 1995 L 281, p. 31) — Obligation

of Member States to ensure that the national supervisory authorities responsible for monitoring the processing of personal data act with complete independence in exercising their functions — Submission to State monitoring of the supervisory authorities of the Länder responsible for monitoring the processing of personal data in the private sector

Operative part of the judgment

The Court:

1. Declares that, by making the authorities responsible for monitoring the processing of personal data by non-public bodies and undertakings governed by public law which compete on the market (öffentlich-rechtliche Wettbewerbsunternehmen) in the different Länder subject to State scrutiny, and by thus incorrectly transposing the requirement that those authorities perform their functions 'with complete independence', the Federal Republic of Germany failed to fulfil its obligations under the second subparagraph of Article 28(1) of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data;
2. Orders the Federal Republic of Germany to pay the costs of the Commission;
3. Orders the European Data Protection Supervisor (EDPS) to bear his own costs.

⁽¹⁾ OJ C 37, 9.2.2008.

Judgment of the Court (Grand Chamber) of 2 March 2010 (reference for a preliminary ruling from the Bundesverwaltungsgericht (Germany)) — Janko Rottmann v Freistaat Bayern

(Case C-135/08) ⁽¹⁾

(Citizenship of the Union — Article 17 EC — Nationality of one Member State acquired by birth — Nationality of another Member State acquired by naturalisation — Loss of original nationality by reason of that naturalisation — Loss with retroactive effect of nationality acquired by naturalisation on account of deception practised in that acquisition — Statelessness leading to loss of the status of citizen of the Union)

(2010/C 113/05)

Language of the case: German

Referring court

Bundesverwaltungsgericht

Parties to the main proceedings

Applicant: Janko Rottmann

Defendant: Freistaat Bayern

Re:

Reference for a preliminary ruling — Bundesverwaltungsgericht (Germany) — Interpretation of Article 17 EC — Acquisition of the nationality of a Member State entailing the definitive loss of the nationality of the Member State of origin — Loss of the new nationality with retroactive effect as a result of deception in connection with its acquisition — Statelessness of the person concerned with the consequence of loss of citizenship of the Union

Operative part of the judgment

It is not contrary to European Union law, in particular to Article 17 EC, for a Member State to withdraw from a citizen of the Union the nationality of that State acquired by naturalisation when that nationality was obtained by deception, on condition that the decision to withdraw observes the principle of proportionality.

⁽¹⁾ OJ C 171, 05.07.2008.

Judgment of the Court (Grand Chamber) of 2 March 2010 (references for a preliminary ruling from the Bundesverwaltungsgericht — Germany) — Aydin Salahadin Abdulla (C-175/08), Kamil Hasan (C-176/08), Ahmed Adem, Hamrin Mosa Rashi (C-178/08), Dler Jamal (C-179/08) v Bundesrepublik Deutschland

(Joined Cases C-175/08, C-176/08, C-178/08 and C-179/08) ⁽¹⁾

(Directive 2004/83/EC — Minimum standards for determining who qualifies for refugee status or for subsidiary protection status — Classification as a 'refugee' — Article 2(c) — Cessation of refugee status — Article 11 — Change of circumstances — Article 11(1)(e) — Refugee — Unfounded fear of persecution — Assessment — Article 11(2) — Revocation of refugee status — Proof — Article 14(2))

(2010/C 113/06)

Language of the case: German

Referring court

Bundesverwaltungsgericht