

Case C-430/05

**Ntionik Anonimi Etairia Emporias I/I, Logismikou kai Parokhis
Ipiresion Mikhanografisis**

and

Ioannis Mikhail Pikoulas

v

Epitropi Kefalaiagoras

(Reference for a preliminary ruling from the Simvoulio tis Epikratias)

(Directive 2001/34/EC — Article 21 — Admission of securities to official stock exchange listing — Listing particulars (prospectus) — Publication of inaccurate information — Persons responsible — Members of the board of directors)

Opinion of Advocate General Sharpston delivered on 8 March 2007 I - 5837

Judgment of the Court (First Chamber), 5 July 2007 I - 5848

Summary of the Judgment

*Freedom of movement for persons — Freedom of establishment — Companies — Directive 2001/34 — Admission of securities to official stock exchange listing
(European Parliament and Council Directive 2001/34, Art. 21)*

Article 21 of Directive 2001/34 on the admission of securities to official stock exchange listing and on information to be published on those securities is to be interpreted as not precluding a national legislature from laying down, for cases where the information recorded in listing particulars published with a view to admitting securities to official stock exchange listing proves to be inaccurate or misleading, administrative penalties imposable not only upon the persons expressly mentioned in those particulars as responsible but also upon the issuer of the securities and, indiscriminately, upon the members of the issuer's board of directors, regardless of whether the board members have been identified as responsible in the listing particulars.

Since the directive does not expressly provide for a system of penalties applicable to the persons on whom responsibility for

the listing particulars is incumbent, the Member States are empowered to choose the penalties which seem appropriate to them. They must, however, exercise that power in accordance with Community law and its general principles, and consequently with the principle of proportionality.

In that regard, a system of civil, criminal or administrative penalties established at national level in respect of the abovementioned persons does not run counter to the objective of that directive, which is to ensure, inter alia, adequate information of investors, where the system is proportionate to the gravity of the infringement consisting in the giving of inaccurate or misleading information in the listing particulars.

(see paras 50, 52, 53, 55, 56,
operative part)