

Re:

Appeal against the judgment of the Court of First Instance (Fifth Chamber) of 16 November 2006 in Case T-333/03 *Masdar UK Ltd v Commission of the European Communities*, dismissing as unfounded an action for damages in respect of loss allegedly suffered by the applicant following refusal by the Commission to pay it for services which it claims to have provided in connection with two projects under the TACIS Programme in Moldova and Russia.

Operative part of the judgment

The Court:

1. Dismisses the appeal;
2. Orders *Masdar (UK) Ltd* to pay the costs.

(¹) OJ C 82, 14.4.2007.

Judgment of the Court (Fourth Chamber) of 22 December 2008 (reference for a preliminary ruling from the Cour d'appel de Liège — Belgium) — État belge — SPF Finances v Les Vergers du Vieux Tauves SA

(Case C-48/07) (¹)

(Corporation taxes — Directive 90/435/EEC — Status of parent company — Capital holding — Holding of shares in usufruct)

(2009/C 44/09)

Language of the case: French

Referring court

Cour d'appel de Liège

Parties to the main proceedings

Applicant: État belge — SPF Finances

Defendant: Les Vergers du Vieux Tauves SA

Re:

Reference for a preliminary ruling — Cour d'Appel de Liège — Interpretation of Articles 3, 4 and 5 of Council Directive 90/435/EEC of 23 July 1990 on the common system of taxation applicable in the case of parent companies and subsidiary companies of different Member States (OJ 1990 L 225, p. 6) —

Meaning of holding in the capital of a subsidiary established in another Member State — Whether holding a right of usufruct over shareholdings is sufficient for tax exemption on dividends received, or whether full ownership is needed.

Operative part of the judgment

The concept of a holding in the capital of a company of another Member State, within the meaning of Article 3 of Council Directive 90/435/EEC of 23 July 1990 on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States, does not include the holding of shares in usufruct.

However, in compliance with the freedoms of movement guaranteed by the EC Treaty, applicable to cross-border situations, when a Member State, in order to avoid double taxation of received dividends, exempts from tax both the dividends which a resident company receives from another resident company in which it holds shares with full title and those which a resident company receives from another resident company in which it holds shares in usufruct, that Member State must apply, for the purpose of exempting received dividends, the same treatment to dividends received from a company established in another Member State by a resident company holding shares with full title as that which it applies to such dividends received by a resident company which holds shares in usufruct.

(¹) OJ C 82, 14.4.2007.

Judgment of the Court (Grand Chamber) of 16 December 2008 (reference for a preliminary ruling from the Korkein hallinto-oikeus — Finland) — Tietosuojavaltuutettu v Satakunnan Markkinapörssi Oy, Satamedia Oy

(Case C-73/07) (¹)

(Directive 95/46/EC — Scope — Processing and flow of tax data of a personal nature — Protection of natural persons — Freedom of expression)

(2009/C 44/10)

Language of the case: Finnish

Referring court

Korkein hallinto-oikeus

Parties to the main proceedings

Applicant: Tietosuojavaltuutettu

Defendants: Satakunnan Markkinapörssi Oy, Satamedia Oy

Re:

Reference for a preliminary ruling — Korkein hallinto-oikeus — Interpretation of Articles 3(1), 9 and 17 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) — Scope — Collection, publication, transfer and processing in a text-messaging service of public tax data relating to the amount of income and taxable assets of natural persons

Operative part of the judgment

1) Article 3(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 is to be interpreted as meaning that an activity in which data on the earned and unearned income and the assets of natural persons are:

- collected from documents in the public domain held by the tax authorities and processed for publication,
- published alphabetically in printed form by income bracket and municipality in the form of comprehensive lists,
- transferred onward on CD-ROM to be used for commercial purposes, and
- processed for the purposes of a text-messaging service whereby mobile telephone users can, by sending a text message containing details of an individual's name and municipality of residence to a given number, receive in reply information concerning the earned and unearned income and assets of that person,

must be considered as the 'processing of personal data' within the meaning of that provision.

- 2) Article 9 of Directive 95/46 is to be interpreted as meaning that the activities referred to at points (a) to (d) of the first question, relating to data from documents which are in the public domain under national legislation, must be considered as activities involving the processing of personal data carried out 'solely for journalistic purposes', within the meaning of that provision, if the sole object of those activities is the disclosure to the public of information, opinions or ideas. Whether that is the case is a matter for the national court to determine.
- 3) Activities involving the processing of personal data such as those referred to at points (c) and (d) of the first question and relating to personal data files which contain solely, and in unaltered form, material that has already been published in the media, fall within the scope of application of Directive 95/46.

(¹) OJ C 95, 28.4.2007.

Judgment of the Court (Third Chamber) of 18 December 2008 — Coop de France Bétail et Viande, formerly Fédération nationale de la coopération bétail et viande (FNCBV)/Fédération nationale des syndicats d'exploitants agricoles (FNSEA), Fédération nationale bovine (FNB), Fédération nationale des producteurs de lait (FNPL), Jeunes agriculteurs (JA) v Commission of the European Communities, French Republic

(Joined Cases C-101/07 P and C-110/07 P) (¹)

(Appeals — Competition — Market in beef and veal — Agreement between national federations of farmers and slaughterers with the object of suspending imports of beef and veal and fixing a minimum purchase price — Fines — Regulation No 17 — Article 15(2) — Taking into account of the turnover of undertakings which are members of the federations)

(2009/C 44/11)

Language of the case: French

Parties

Appellants: Coop de France Bétail et Viande, formerly Fédération nationale de la coopération bétail et viande (FNCBV) (represented by M. Ponsard, avocat) (C-101/07 P), Fédération nationale des syndicats d'exploitants agricoles (FNSEA), Fédération nationale bovine (FNB), Fédération nationale des producteurs de lait (FNPL), Jeunes agriculteurs (JA) (represented by V. Ledoux and B. Neouze, avocats) (C-110/07 P),

Other parties to the proceedings: French Republic (represented by G. de Bergues and S. Ramet, Agents), Commission of the European Communities (represented by A. Bouquet and X. Lewis, Agents)

Re:

Appeal against the judgment of the Court of First Instance (First Chamber) of 13 December 2006 in Joined Cases T-217/03 and T-245/03 FNCBV and Others v Commission, by which the Court of First Instance dismissed the applicants' application primarily, to annul Commission Decision 2003/600/EC of 2 April 2003 relating to a proceeding pursuant to Article 81 of the EC Treaty (OJ 2003 L 209, p. 12) or, alternatively, to cancel or reduce the fine imposed by that decision — Constituent elements of a cartel — Need for acquiescence of the parties — Method of calculating the fines — Entitlement to take into account the turnover of the members of an association where it does not have formal power to bind its members — Duty to state reasons and infringement of the rights of the defence

Operative part of the judgment

The Court:

1. Dismisses the appeals;
2. Orders Coop de France bétail et viande, formerly Fédération nationale de la coopération bétail et viande (FNCBV), Fédération nationale des syndicats d'exploitants agricoles (FNSEA), Fédération nationale bovine (FNB), Fédération nationale des producteurs de lait (FNPL) and Jeunes agriculteurs (JA) to pay the costs;