

**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.

(<sup>1</sup>) 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) (<sup>1</sup>)

(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;

3. Orders the French Republic to bear its own costs.

(<sup>1</sup>) OJ C 95, 28.4.2007.

**Judgment of the Court (Grand Chamber) of 9 December 2008 — Commission of the European Communities v French Republic**

(Case C-121/07) (<sup>1</sup>)

*(Failure of a Member State to fulfil obligations — Directive 2001/18/EC — Deliberate release into the environment and placing on the market of GMOs — Judgment of the Court establishing the failure of a Member State to fulfil its obligations — Non-compliance — Article 228 EC — Judgment complied with during the proceedings — Pecuniary penalties)*

(2009/C 44/12)

Language of the case: French

**Parties**

*Applicant:* Commission of the European Communities (represented by: B. Stromsky and C. Zadra, acting as Agents)

*Defendant:* French Republic (represented by: E. Belliard, S. Gasri and G. de Bergues, acting as Agents)

*Intervener in support of the defendant:* Czech Republic (represented by: initially, T. Boček and, subsequently, M. Smolek, acting as Agents)

**Re:**

Failure of a Member State to fulfil its obligations — Failure to comply with the judgment of the Court of 15 July 2004 in Case C-419/03 concerning the failure to transpose the provisions of Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC on the deliberate release into the environment of genetically modified organisms (OJ 2001 L 106, p. 1), which diverge from or go beyond the provisions of that directive — Application for the imposition of a penalty payment and a lump sum payment

**Operative part of the judgment**

*The Court:*

1. Declares that, by failing to take, by the date on which the deadline imposed in the reasoned opinion expired, all the measures necessary to comply with the judgment of 15 July 2004 in Case C-419/03 *Commission v France concerning its failure to transpose into national law the provisions of Directive 2001/18/EC of the*

*European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC, which diverge from or go beyond the provisions of Council Directive 90/220/EEC of 23 April 1990 on the deliberate release into the environment of genetically modified organisms, the French Republic has failed to fulfil its obligations under Article 228(1) EC;*

2. Orders the French Republic to pay to the Commission of the European Communities, into the 'European Community own resources' account, a lump sum of EUR 10 million;

3. Orders the French Republic to pay the costs;

4. Orders the Czech Republic to bear its own costs.

(<sup>1</sup>) OJ C 95, 28.4.2007.

**Judgment of the Court (Grand Chamber) of 16 December 2008 (reference for a preliminary ruling from the Conseil d'État — France) — Société Arcelor Atlantique et Lorraine, Sollac Méditerranée, Société Arcelor Packaging International, Société Ugine & Alz France, Société Industeel Loire, Société Creusot Métal, Société Imphy Alloys, Arcelor SA v Premier ministre, Ministre de l'Écologie et du Développement durable, Ministre de l'Économie, des Finances et de l'Industrie**

(Case C-127/07) (<sup>1</sup>)

*(Environment — Integrated pollution prevention and control — Greenhouse gas emission allowance trading scheme — Directive 2003/87/EC — Scope — Installations in the steel sector included — Installations in the chemical and non-ferrous metal sectors excluded — Principle of equal treatment)*

(2009/C 44/13)

Language of the case: French

**Referring court**

Conseil d'État

**Parties to the main proceedings**

*Applicants:* Société Arcelor Atlantique et Lorraine, Sollac Méditerranée, Société Arcelor Packaging International, Société Ugine & Alz France, Société Industeel Loire, Société Creusot Métal, Société Imphy Alloys, Arcelor SA

*Defendants:* Premier ministre, Ministre de l'Écologie et du Développement durable, Ministre de l'Économie, des Finances et de l'Industrie