

Re:

Preliminary ruling — Bundesgerichtshof — Interpretation of Article 7(2)(a) of Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases (OJ 1996 L 77, p. 20) — Adoption of data from a protected database and their incorporation in a different database on the basis of individual assessments following a close examination of those data, without any copying being carried out — Whether such a data adoption and incorporation operation constitutes 'extraction' within the meaning of Directive 96/9/EC

Operative part of the judgment

The transfer of material from a protected database to another database following an on-screen consultation of the first database and an individual assessment of the material contained in that first database is capable of constituting an 'extraction', within the meaning of Article 7 of Directive 96/9 of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases, to the extent that — which it is for the referring court to ascertain — that operation amounts to the transfer of a substantial part, evaluated qualitatively or quantitatively, of the contents of the protected database, or to transfers of insubstantial parts which, by their repeated or systematic nature, would have resulted in the reconstruction of a substantial part of those contents.

(¹) OJ C 211, 8.9.2007.

Judgment of the Court (Seventh Chamber) of 25 September 2008 — Commission of the European Communities v Italian Republic

(Case C-368/07) (¹)

(Failure of a Member State to fulfil obligations — Directive 2000/59/EC — Port reception facilities for ship-generated waste and cargo residues — Failure to develop and implement waste reception and handling plans for all ports)

(2008/C 301/18)

Language of the case: Italian

Parties

Applicant: Commission of the European Communities (represented by: K. Simonsson and E. Montaguti, Agents)

Defendant: Italian Republic (represented by: I.M. Braguglia, Agent, G. Fiengo and F. Arena, lawyers)

Re:

Failure of Member State to fulfil obligations — Failure to have adopted, within the prescribed time-limit, all the measures necessary to comply with Directive 2000/59/EC of the European Parliament and of the Council of 27 November 2000 on port reception facilities for ship-generated waste and cargo residues (OJ 2000 L 332, p. 81)

Operative part of the judgment

The Court hereby:

1. Declares that, by failing to prepare and adopt waste reception and handling plans for every Italian port, the Italian Republic has failed to fulfil its obligations under Article 5(1) and 16(1) of Directive 2000/59/EC of the European Parliament and of the Council of 27 November 2000 on port reception facilities for ship-generated waste and cargo residues;
2. Orders the Italian Republic to pay the costs.

(¹) OJ C 223, 22.9.2007.

Judgment of the Court (First Chamber) of 2 October 2008 (reference for a preliminary ruling from the Supreme Court — Ireland) — Nicole Hassett v South Eastern Health Board, Cheryl Doherty v North Western Health Board

(Case C-372/07) (¹)

(Jurisdiction — Regulation (EC) No 44/2001 — Point 2 of Article 22 — Disputes as to the validity of decisions of organs of companies — Exclusive jurisdiction of the courts of the State where the company has its seat — Medical practitioners' mutual defence organisation)

(2008/C 301/19)

Language of the case: English

Referring court

Supreme Court

Parties to the main proceedings

Applicants: Nicole Hassett, Cheryl Doherty

Defendants: South Eastern Health Board, North Western Health Board

In the presence of: Raymond Howard, Medical Defence Union Ltd, MDU Services Ltd, Brian Davidson

Re:

Reference for a preliminary ruling — Supreme Court — Interpretation of Article 22(2) of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2001 L 12, p. 1) — Medical trade union constituted in the form of a company under the law of a Member State, which provides assistance and indemnity to its members practising in the Member State and in another Member State — Provision of the assistance/indemnity dependent on a decision taken by the board of directors of that company under an absolute discretionary power — Challenge to a decision refusing assistance or indemnity to a doctor practising in the other Member State — Exclusive jurisdiction of the courts of the State in which the company has its seat on the basis of Article 22(2) of the regulation

Operative part of the judgment

Point 2 of Article 22 of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters is to be interpreted as meaning that proceedings, such as those at issue before the referring court, in the context of which one of the parties alleges that a decision adopted by an organ of a company has infringed rights that it claims under that company's Articles of Association, do not concern the validity of the decisions of the organs of a company within the meaning of that provision.

⁽¹⁾ OJ C 283, 24.11.2007.

Judgment of the Court (Third Chamber) of 9 October 2008 (reference for a preliminary ruling from the Fővárosi Bíróság, Republic of Hungary) — Criminal proceedings brought by György Katz against István Roland Sós

(Case C-404/07) ⁽¹⁾

(Police and judicial cooperation in criminal matters — Framework Decision 2001/220/JHA — Standing of victims in criminal proceedings — Private prosecutor in substitution for the public prosecutor — Testimony of the victim as a witness)

(2008/C 301/20)

Language of the case: Hungarian

Referring court

Fővárosi Bíróság

Parties in the criminal proceedings

György Katz against István Roland Sós

Re:

Reference for a preliminary ruling — Fővárosi Bíróság — Interpretation of Articles 2 and 3 of Council Framework Decision of 15 March 2001 on the standing of victims in criminal proceedings (OJ 2001 L 82, p. 1) — National legislation precluding the possibility of the victim giving evidence in criminal proceedings instituted by the victim as a substitute private prosecutor

Operative part of the judgment

Articles 2 and 3 of Council Framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings are to be interpreted as not obliging a national court to permit the victim to be heard as a witness in criminal proceedings instituted by a substitute private prosecution such as that in issue in the main proceedings. However, in the absence of such a possibility, it must be possible for the victim to be permitted to give testimony which can be taken into account as evidence.

⁽¹⁾ OJ C 283, 24.11.2007.

Judgment of the Court (Fifth Chamber) of 2 October 2008 (reference for a preliminary ruling from the Hoge Raad der Nederlanden — Netherlands) — X B.V. v Staatssecretaris van Financiën

(Case C-411/07) ⁽¹⁾

(Common Customs Tariff — Combined Nomenclature — Tariff classification — Headings 8541, 8542 and 8543 — Optocouplers)

(2008/C 301/21)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Applicant: X B.V.

Defendant: Staatssecretaris van Financiën