

Operative part of the judgment

1. The first paragraph of Article 20 and Article 138(1) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, are to be interpreted as meaning that the classification of a transaction as an intra-Community supply or acquisition cannot be made contingent on the observance of any time period during which the transport of the goods in question from the Member State of supply to the Member State of destination must be commenced or completed. In the specific case of the acquisition of a new means of transport within the meaning of Article 2(1)(b)(ii) of that directive, the determination of the intra-Community nature of the transaction must be made through an overall assessment of all the objective circumstances and the purchaser's intentions, provided that it is supported by objective evidence which make it possible to identify the Member State in which final use of the goods concerned is envisaged.
2. The assessment of whether a means of transport which is the subject-matter of an intra-Community acquisition is new within the meaning of Article 2(2)(b) of Directive 2006/112 must be made at the time of the supply of the goods in question by the vendor to the purchaser.

(¹) OJ C 90, 18.04.2009.

Judgment of the Court (Grand Chamber) of 9 November 2010 (reference for a preliminary ruling from the Verwaltungsgericht Wiesbaden — Germany) — Volker und Markus Schecke GbR (C-92/09), Hartmut Eifert (C-93/09) v Land Hessen

(Joined Cases C-92/09 and C-93/09) (¹)

(Protection of natural persons with regard to the processing of personal data — Publication of information on beneficiaries of agricultural aid — Validity of the provisions of European Union law providing for that publication and laying down detailed rules for such publication — Charter of Fundamental Rights of the European Union — Articles 7 and 8 — Directive 95/46/EC — Interpretation of Articles 18 and 20)

(2011/C 13/09)

Language of the case: German

Referring court

Verwaltungsgericht Wiesbaden

Parties to the main proceedings

Applicants: Volker und Markus Schecke GbR (C-92/09), Hartmut Eifert (C-93/09)

Defendant: Land Hessen

Joined party: Bundesanstalt für Landwirtschaft und Ernährung

Re:

Preliminary ruling — Verwaltungsgericht Wiesbaden — Validity of Articles 42(8b) and 44a of Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy (OJ 2005 L 209, p. 1), Commission Regulation (EC) No 259/2008 of 18 March 2008 laying down detailed rules for the application of Council Regulation (EC) No 1290/2005 as regards the publication of information on the beneficiaries of funds deriving from the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD) (OJ 2008 L 76, p. 28), and Directive 2006/24/EC of the European Parliament and of the Council of 15 March 2006 on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks and amending Directive 2002/58/EC (OJ 2006 L 105, p. 54) — Interpretation of Article 7, the second indent of Article 18(2), and Article 20 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) — Processing of personal data of beneficiaries of the European agricultural funds consisting in publishing the data on a website with a search tool — Validity in the light of the right to protection of personal data of the provisions of Community law prescribing that publication and laying down the detailed rules for publication — Conditions under which such publication may be carried out

Operative part of the judgment

1. Articles 42(8b) and 44a of Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy, as amended by Council Regulation (EC) No 1437/2007 of 26 November 2007, and Commission Regulation (EC) No 259/2008 of 18 March 2008 laying down detailed rules for the application of Regulation No 1290/2005 as regards the publication of information on the beneficiaries of funds deriving from the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD) are invalid in so far as, with regard to natural persons who are beneficiaries of EAGF and EAFRD aid, those provisions impose an obligation to publish personal data relating to each beneficiary without drawing a distinction based on relevant criteria such as the periods during which those persons have received such aid, the frequency of such aid or the nature and amount thereof.
2. The invalidity of the provisions of European Union law mentioned in paragraph 1 of this operative part does not allow any action to be brought to challenge the effects of the publication of the lists of beneficiaries of EAGF and EAFRD aid carried out by the national authorities on the basis of those provisions during the period prior to the date on which the present judgment is delivered.

3. The second indent of Article 18(2) 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 must be interpreted as not placing the personal data protection official under an obligation to keep the register provided for by that provision before an operation for the processing of personal data, such as that resulting from Articles 42(8b) and 44a of Regulation No 1290/2005, as amended by Regulation No 1437/2007, and from Regulation No 259/2008, is carried out.
4. Article 20 of Directive 95/46 must be interpreted as not imposing an obligation on the Member States to make the publication of information resulting from Articles 42(8b) and 44a of Regulation No 1290/2005, as amended by Regulation No 1437/2007, and from Regulation No 259/2008 subject to the prior checks for which that Article 20 provides.

(¹) OJ C 129, 6.6.2009
OJ C 119, 16.5.2009

Judgment of the Court (First Chamber) of 18 November 2010 (reference for a preliminary ruling from the Rechtbank van eerste aanleg te Dendermonde — Belgium) — Criminal proceedings against V. W. Lahousse, Lavichy BVBA

(Case C-142/09) (¹)

(Directives 92/61/EEC and 2002/24/EC — Type-approval of two- or three-wheel motor vehicles — Vehicles intended for use in competition, on roads or in off-road conditions — National legislation prohibiting the manufacture, marketing and use of equipment designed to increase the engine power and/or speed of mopeds)

(2011/C 13/10)

Language of the case: Dutch

Referring court

Rechtbank van eerste aanleg te Dendermonde

Parties in the main proceedings

V. W. Lahousse, Lavichy BVBA

Re:

Reference for a preliminary ruling — Rechtbank van eerste aanleg te Dendermonde (Belgium) — Interpretation of Articles 1(1), 12 and 15(2) of Directive 2002/24/EC of the European Parliament and of the Council of 18 March 2002 relating to the

type-approval of two or three-wheel motor vehicles and repealing Council Directive 92/61/EEC (OJ 2002 L 124, p. 1) — Exception in respect of vehicles intended for use in competition, on roads or in off-road conditions — National legislation disregarding that exception

Operative part of the judgment

Council Directive 92/61/EEC of 30 June 1992 relating to the type-approval of two or three-wheel motor vehicles, and Directive 2002/24/EC of the European Parliament and of the Council of 18 March 2002 relating to the type-approval of two or three-wheel motor vehicles and repealing Directive 92/61 are to be construed as meaning that, where a vehicle or a component or separate technical unit thereof does not qualify for the type-approval procedure established by those directives, on the ground that it does not come within their scope, the provisions of those directives do not prevent a Member State from introducing, in its domestic law and in relation to such vehicle, component or separate technical unit, a similar mechanism for recognising the checks carried out by other Member States. In any event, such legislation must comply with EU law, in particular Articles 34 TFEU and 36 TFEU.

(¹) OJ C 153, 4.7.2009.

Judgment of the Court (First Chamber) of 11 November 2010 (reference for a preliminary ruling from the Verwaltungsgericht Schwerin (Germany)) — André Grootes v Amt für Landwirtschaft Parchim

(Case C-152/09) (¹)

(Common agricultural policy — Integrated administration and control system for certain aid schemes — Single payment scheme — Regulation (EC) No 1782/2003 — Calculation of payment entitlements — Article 40(5) — Farmers who were under agri-environmental commitments during the reference period — Article 59(3) — Regional implementation of the single payment scheme — Article 61 — Different per-unit values for hectares under permanent pasture and for any other hectare eligible for aid)

(2011/C 13/11)

Language of the case: German

Referring court

Verwaltungsgericht Schwerin

Parties to the main proceedings

Applicant: André Grootes

Defendant: Amt für Landwirtschaft Parchim