

(b) In case of an affirmative answer to question 2(a), and, given that, as the Court of Justice held in Joined Cases C-278/07 to C-280/07 *Hauptzollamt Hamburg-Jonas v Josef Vosding Schlacht, Kühl- und Zerlegetrieb GmbH & Co* [2009] ECR I-457, the limitation period referred to in Article 3 of Regulation No 2988/95 is applicable to administrative measures such as the recovery of aid wrongly received by an operator as a result of irregularities it committed:

— Should the starting point for the limitation period be set at the date of payment of the aid to the recipient or at that of the recipient's use of the subsidy received to pay the provider recruited in disregard of one or more of the public procurement rules?

— Should that period be regarded as interrupted by the transmission, by the competent national authority to the recipient of the subsidy, of an auditor's report finding that there was a failure to comply with the public procurement rules and recommending, as a result, that the national authority obtain repayment of the sums paid?

— When a Member State makes use of the possibility afforded by Article 3(3) of Regulation No 2988/95 to apply a longer limitation period for proceedings, in particular where, in France, the ordinary limitation period at the time of the facts at issue is applicable, as set out at Article 2262 of the Code Civil which provides that 'All actions, both in rem and in personam, are time-barred after 30 years ...', must the compatibility of such a limitation period with Community law, in particular with the principle of proportionality, be determined in the light of the maximum limitation period for proceedings according to the national legislation providing the legal basis for the national administration's demand for recovery or in the light of the period in fact applied in the particular case?

(c) In case of a negative answer to question 2(a), with regard to payment of aid such as that at issue in the main proceedings, do the financial interests of the Community prevent the judge from applying the national rules relating to the withdrawal of decisions creating rights, according to which, except in cases of non-existence, acquisition by fraud or the recipient's request, the administration may withdraw an individual decision creating rights, if it is illegal, only within a period of four months following the date that decision was taken, an administrative decision being nonetheless capable, in particular when it concerns payment of aid, of being coupled with conditions subsequent, the fulfilment of which allows the withdrawal of the aid in question without any limitation condition — the Conseil d'État having held that that national rule must be inter-

preted to the effect that it could not be relied on by the recipient of an aid wrongly attributed in application of Community legislation unless it was in good faith?

- 
- (<sup>1</sup>) Council Regulation (EEC) No 2052/88 of 24 June 1988 on the tasks of the Structural Funds and their effectiveness and on coordination of their activities between themselves and with the operations of the European Investment Bank and the other existing financial instruments (OJ 1988 L 185, p. 9).
- (<sup>2</sup>) Council Regulation (EEC) No 4253/88 of 19 December 1988, laying down provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments (OJ 1988 L 374, p. 1).
- (<sup>3</sup>) Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ 1995 L 312, p. 1).

---

**Reference for a preliminary ruling from the Tribunal Supremo (Spain) lodged on 28 September 2010 — Asociación Nacional de Establecimientos Financieros de Crédito (ASNEF) v Administración del Estado**

(Case C-468/10)

(2010/C 346/51)

*Language of the case: Spanish*

**Referring court**

Tribunal Supremo

**Parties to the main proceedings**

*Applicant:* Asociación Nacional de Establecimientos Financieros de Crédito (ASNEF)

*Defendant:* Administración del Estado

**Questions referred**

1. Must Article 7(f) of Directive 95/46/EC (<sup>1</sup>) 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 be interpreted as precluding the application of national rules which, in the absence of the interested party's consent, and to allow processing of his personal data that is necessary to pursue a legitimate interest of the controller or of third parties to whom the data will be disclosed, not only require fundamental rights and freedoms not to be prejudiced, but also require the data to appear in public sources?
2. Are the conditions for conferring on it direct effect, set out in the case-law of the Court of Justice of the European Union, met by the above-mentioned Article 7(f)?

---

(<sup>1</sup>) OJ 1995 L 281, p. 31.