

Operative part of the judgment

The Court:

1. Dismisses the appeal;
2. Orders Telefónica SA to pay the costs.

(¹) OJ C 227, 28.7.2012.

Judgment of the Court (Grand Chamber) of 19 December 2013 (request for a preliminary ruling from the Upper Tribunal — United Kingdom) — Fish Legal, Emily Shirley v Information Commissioner, United Utilities Water plc, Yorkshire Water Services Ltd, Southern Water Services Ltd

(Case C-279/12) (¹)

(Reference for a preliminary ruling — Aarhus Convention — Directive 2003/4/EC — Public access to environmental information — Scope — Concept of ‘public authority’ — Water and sewerage undertakers — Privatisation of the water industry in England and Wales)

(2014/C 52/20)

Language of the case: English

Referring court

Upper Tribunal

Parties to the main proceedings

Appellants: Fish Legal, Emily Shirley

Respondents: Information Commissioner, United Utilities Water plc, Yorkshire Water Services Ltd, Southern Water Services Ltd

Re:

Request for a preliminary ruling — Upper Tribunal (Administrative Appeals Chamber) (United Kingdom) — Interpretation of Article 2(2)(a), (b) and (c) of Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC (OJ 2003 L 41, p. 26) — Obligation on public authorities to make environmental information held by them available to any applicant — Scope — Notion of natural or legal persons ‘performing public administrative functions under national law’.

Operative part of the judgment

1. In order to determine whether entities such as United Utilities Water plc, Yorkshire Water Services Ltd and Southern Water Services Ltd can be classified as legal persons which perform ‘public administrative functions’ under national law, within the meaning of Article 2(2)(b) of Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing

Council Directive 90/313/EEC, it should be examined whether those entities are vested, under the national law which is applicable to them, with special powers beyond those which result from the normal rules applicable in relations between persons governed by private law.

2. Undertakings, such as United Utilities Water plc, Yorkshire Water Services Ltd and Southern Water Services Ltd, which provide public services relating to the environment are under the control of a body or person falling within Article 2(2)(a) or (b) of Directive 2003/4, and should therefore be classified as ‘public authorities’ by virtue of Article 2(2)(c) of that directive, if they do not determine in a genuinely autonomous manner the way in which they provide those services since a public authority covered by Article 2(2)(a) or (b) of the directive is in a position to exert decisive influence on their action in the environmental field.
3. Article 2(2)(b) of Directive 2003/4 must be interpreted as meaning that a person falling within that provision constitutes a public authority in respect of all the environmental information which it holds. Commercial companies, such as United Utilities Water plc, Yorkshire Water Services Ltd and Southern Water Services Ltd, which are capable of being a public authority by virtue of Article 2(2)(c) of the directive only in so far as, when they provide public services in the environmental field, they are under the control of a body or person falling within Article 2(2)(a) or (b) of the directive are not required to provide environmental information if it is not disputed that the information does not relate to the provision of such services.

(¹) OJ C 250, 18.8.2012.

Judgment of the Court (Sixth Chamber) of 19 December 2013 (request for a preliminary ruling from the Consiglio di Stato — Italy) — Trento Sviluppo srl, Centrale Adriatica Soc. coop. arl v Autorità Garante della Concorrenza e del Mercato

(Case C-281/12) (¹)

(Reference for a preliminary ruling — Consumer protection — Unfair business-to-consumer commercial practices — Directive 2005/29/EC — Article 6(1) — Concept of ‘misleading action’ — Cumulative nature of the conditions set out in the provision in question)

(2014/C 52/21)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Appellants: Trento Sviluppo srl, Centrale Adriatica Soc. coop. arl

Respondent: Autorità Garante della Concorrenza e del Mercato