

communication of a document would 'be generally prejudicial to secrets protected by law'. That concept is not amongst the exhaustive list of exceptions set out in Article 3(2) of Directive 90/313/EEC. It is not the same thing as, and is no less extensive in the area it covers than, the concept in the directive of 'confidentiality of data'. Even though national authorities are required to interpret provisions of domestic law in such a way as to ensure compliance with Community law, the wording of Law No 78-753 is not sufficient objectively to exclude the possibility of a refusal that is not justified under the directive, and, contrary to the obligations which follow from Community law, the legal appearance creates a legal uncertainty which cannot be allowed.

- Failure to transpose the final paragraph of Article 3(2) (partial communication of information): A doctrine set out by the (French) 'Commission on Access to Administrative Documents' is no substitute for the correct transposition of a directive conferring rights on individuals.
- Failure to transpose Article 3(3) (possibility of refusing a manifestly unreasonable request, or one requiring the communication of unfinished or internal documents): Whilst it is true that Article 3(3) of the directive states merely a possibility that is open to Member States and not an obligation, it appears that that possibility of rejecting requests is in fact used by the French administration when faced with certain requests for information, and that individuals are not in a position to discover with the required clarity what the limits of their right of access to information are, since the assessment of the exceptions is carried out only on a case by case basis by the administrative courts.
- Incorrect transposition of Article 3(4) (Possibility of no reasons being given for implied rejection decisions).

⁽¹⁾ OJ L 158, 23.6.1990, p. 56.

Reference for a preliminary ruling by the High Court of Justice (England & Wales), Queen's Bench Division (Crown Office), by order of that court of 1 June 2000, in the case of the Commissioners of Customs and Excise against CSC Financial Services Ltd (formerly Continuum (Europe) Ltd)

(Case C-235/00)

(2000/C 233/39)

Reference has been made to the Court of Justice of the European Communities by an order of the High Court of

Justice (England & Wales), Queen's Bench Division (Crown Office) of 1 June 2000, which was received at the Court Registry on 13 June 2000, for a preliminary ruling in the case of the Commissioners of Customs and Excise against CSC Financial Services Ltd (formerly Continuum (Europe) Ltd), on the following questions:

How is the exemption provided by article 13B(d)(5)⁽¹⁾ in respect of 'transactions in securities' to be interpreted? In particular,

- (1) does the term 'transaction in securities' apply only to a transaction in which the parties' legal rights or obligations in respect of the security are altered?
- (2) does the term 'transactions, including negotiation, in securities' apply to a service of providing information to potential investors and receiving and processing applications from investors for the issue of a security (but not including preparing and dispatching the document of title to the security), where that service is provided to a person who has legal rights or obligations under the security by a person who does not have any legal right or obligation under the security?

⁽¹⁾ Of the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (OJ L 145, 13.06.77, p. 1).

Action brought on 13 June 2000 by the Commission of the European Communities against the Grand Duchy of Luxembourg

(Case C-236/00)

(2000/C 233/40)

An action against the Grand Duchy of Luxembourg was brought before the Court of Justice on 13 June 2000 by the Commission of the European Communities, represented by Gérard Berscheid, of its Legal Service, acting as Agent, with an address for service in Luxembourg at the office of Carlos Gómez de la Cruz, of its Legal Service, Wagner Centre, Kirchberg.

The Commission of the European Communities claims that the Court should:

- declare that, by failing to bring into force within the prescribed time-limits the laws, regulations and administrative measures necessary in order to comply with:
- Commission Directive 98/51/EC of 9 July 1998 laying down certain measures for implementing Council Directive 95/69/EC laying down the conditions and arrangements for approving and registering certain establishments and intermediaries operating in the animal feed sector⁽¹⁾, and

- Commission Directive 98/67/EC of 7 September 1998 amending Directives 80/511/EEC, 82/475/EEC, 91/357/EEC and Council Directive 96/25/EC and repealing Directive 92/87/EEC⁽²⁾,

the Grand Duchy of Luxembourg has failed to comply with its obligations under Article 10 of Directive 98/51/EC and Article 7 of Directive 98/67/EC;

- order the Grand Duchy of Luxembourg to pay the costs.

Pleas in law and main arguments

The mandatory nature of the provisions of the third paragraph of Article 249 and the first paragraph of Article 10 EC obliges the Member States to adopt the measures necessary in order to transpose directives into their national legal order within the time-limit prescribed for so doing. The time-limit in question expired on 31 December 1998 but the Grand Duchy of Luxembourg has not adopted the necessary measures.

⁽¹⁾ OJ L 208 of 24.7.1998, p. 43.

⁽²⁾ OJ L 261 of 24.9.1998, p. 10.

Action brought on 14 June 2000 by the Commission of the European Communities against the Grand Duchy of Luxembourg

(Case C-237/00)

(2000/C 233/41)

An action against the Grand Duchy of Luxembourg was brought before the Court of Justice on 14 June 2000 by the Commission of the European Communities, represented by Bernard Mongin, of its Legal Service, acting as Agent, with an address for service in Luxembourg at the office of Carlos Gómez de la Cruz, of its Legal Service, Wagner Centre, Kirchberg.

The Commission of the European Communities claims that the Court should:

- declare that, by failing to adopt or notify within the prescribed time-limit the laws, regulations and administrative measures necessary in order to comply with Council Directive 96/98/EC of 20 December 1996 on marine equipment⁽¹⁾, the Grand Duchy of Luxembourg has failed to comply with its obligations under Article 20 of that directive and under the provisions of the EC Treaty;
- order the Luxembourg Government to pay the costs.

Pleas in law and main arguments

The pleas in law and main arguments are similar to those advanced in Case C-236/00⁽²⁾; the period for transposition expired on 30 June 1998.

⁽¹⁾ OJ L 46 of 17.2.1997, p. 25.

⁽²⁾ See page 21 of this Official Journal.

Appeal brought on 14 June 2000 by Peter Reichert against the judgment delivered on 13 April 2000 by the Court of First Instance of the European Communities (single judge) in Case T-18/98 between Peter Reichert and the European Parliament

(Case C-238/00 P)

(2000/C 233/42)

An appeal against the judgment delivered on 13 April 2000 by the Court of First Instance of the European Communities (single judge) in Case T-18/98 between Peter Reichert and the European Parliament was brought before the Court of Justice of the European Communities on 14 June 2000 by Peter Reichert, represented by Dieter Rogalla, Rechtsanwalt, of Eicklöhken 19, D-45549 Sprockhövel (Germany), with an address for service in Luxembourg at the Chambers of Decker, Braun & Wagner, P.O. Box 335, L-2013 Luxembourg.

The appellant claims that the Court should:

- annul the judgment delivered on 13 April 2000 by the Court of First Instance in Case T-18/98;
- itself determine the appellant's application for the grant of the expatriation allowance, or alternatively refer the case back to the Court of First Instance for re-examination and a fresh decision;
- order the European Parliament, as respondent, to pay the costs of the entire proceedings.

Pleas in law and main arguments

- The appellant's employment as a correspondent in the Brussels press office of the VWD, which was taken into consideration in the contested judgment as a ground for the refusal of the expatriation allowance, lasted only 20 months and thus does not in any way constitute a substantial part of the 66-month period referred to in Article 4(1)(a) of Annex VII to the Staff Regulations of officials.
- The Court of First Instance failed to give any consideration to the professional position occupied by the appellant during the remaining period (namely, that of Brussels correspondent for the publication 'Wirtschaftswoche', the editorial headquarters of which is situated in Düsseldorf).