

A) Is it possible to interpret Article 81(1) EC as meaning that agreements between financial institutions for the exchange of information about the solvency of their customers and lateness of payments by them may be regarded as compatible with the common market, in so far as they affect the financial policies of the European Union and the common credit market and have the effect of restricting competition in the financial and credit institution sector?

B) Is it possible to interpret Article 81(3) EC as meaning that a Member State may, by means of bodies responsible for overseeing competition, authorise agreements between financial institutions for the exchange of information about their customers through the establishment of a credit information register, in so far as the creation of that register produces benefits for consumers and users of those financial services?

passenger car of the highway within the meaning of the *Wegenverkeerswet 1994*, where the full amount of the tax is chargeable irrespective of the period of the lease and the duration of the use of the highway in the Netherlands and where that natural person has no right at all to an exemption or a refund?

(¹) 1992 Law on passenger car and motorcycle tax.

Reference for a preliminary ruling from the Gerechtshof te 's-Hertogenbosch by order of that court of 31 May 2005 in G.M. van de Coevering v Rijksbelastingdienst

(Case C-242/05)

(2005/C 205/15)

(Language of the case: Dutch)

Reference has been made to the Court of Justice of the European Communities by order of the Gerechtshof te 's-Hertogenbosch ('s-Hertogenbosch Regional Court of Appeal) of 31 May 2005, received at the Court Registry on 3 June 2005, for a preliminary ruling in the proceedings between G.M. van de Coevering and Roermond Customs District of the Rijksbelastingdienst on the following question:

Does Community law, in particular the freedom to provide services as set out in Articles 49 EC to 55 EC, preclude the Netherlands from charging a natural person resident in the Netherlands — who leases in another Member State, under a leasing contract with a lessor, a passenger car which is not registered in the register pursuant to the *Wegenverkeerswet 1994* and on which no passenger car and motorcycle tax under Article 1(2) of the *Wet BPM* (¹) has been paid — passenger car and motorcycle tax under Article 1(5) of the *Wet BPM* on commencement of use in the Netherlands by that

Reference for a preliminary ruling from the Bayerischer Verwaltungsgerichtshof (Bavarian Higher Administrative Court) by order of that court of 19 April 2005 in Bund Naturschutz in Bayern e.V. v Freistaat Bayern

(Case C-244/05)

(2005/C 205/16)

(Language of the case: German)

Reference has been made to the Court of Justice of the European Communities by order of the Bayerischer Verwaltungsgerichtshof (Bavarian Higher Administrative Court) of 19 April 2005, received at the Court Registry on 19 April 2005, for a preliminary ruling in the proceedings between Bund Naturschutz in Bayern e.V. and Freistaat Bayern on the following question:

1. What protection regime is required under Article 3(1) of Directive 92/43 EEC (¹) in conjunction with the sixth recital in the preamble to that Directive in the light of the prohibition on frustrating the objectives of the Treaty laid down in Article 10(2) of the EC Treaty (Treaty establishing the European Community of 25 March 1957, as most recently amended by the 2003 EU Treaty of Accession of 16 April 2003) and following the judgment of the European Court of Justice of 13 January 2005 in Case C-117/03 for sites which could be designated sites of Community importance, particularly those with priority natural habitat types and/or priority species, before they appear on the list of sites of Community importance adopted by the Commission of the European Communities under the procedure provided for in Article 21 of the Directive?

2. What is the effect on that protection regime if the said sites already appear on the list of national recommendations submitted to the Commission under Article 4(1) of Directive 92/43/EEC?
3. Is a national protection regime for the said sites under Article 48(2) of the Bavarian Naturschutzgesetz (Nature Conservancy Law) sufficient to satisfy the requirements of Community law under Article 3(1) of Directive 92/43/EEC in conjunction with the sixth recital in the preamble to that Directive in the light of the prohibition on frustrating the objectives of the Treaty laid down in Article 10(2) of the EC Treaty?

Article 48(2) of the Bavarian Naturschutzgesetz is worded as follows:

'Until such time as regulations are brought in under Part III the institutes for nature conservation having authority under Article 45 or agencies for the provisional safeguarding of areas of conservation and objects meriting protection may bring in general or specific regulations imposing the bans on changes provided for under Part III for a period of up to two years if it is feared that the purpose of the intended protective measure would be adversely affected by changes; if special circumstances so require, the period may be extended for a maximum of one further year. The measure may not be brought in unless the competent institute for nature conservation or agency instigates procedure for definitive protection at the same time or immediately thereafter.'

(¹) OJ. 1992 L 206, p. 7

Action brought on 14 June 2005 by Commission of the European Communities against Ireland

(Case C-248/05)

(2005/C 205/17)

(Language of the case: English)

An action against Ireland was brought before the Court of Justice of the European Communities on 14 June 2005 by the

Commission of the European Communities, represented by Ms Sara Pardo Quintillán and Ms Donatella Recchia, acting as Agents, assisted by F. Louis of the Brussels bar and C. O'Daly, Solicitor of the Law Society of Ireland, with an address for service in Luxembourg.

The applicant claims that the Court should:

1. declare that, in failing to take all the measures necessary to comply with Articles 4, 5, 7, 9 and 10 of Council Directive 80/68/EEC (¹) on the protection of groundwater against pollution caused by certain dangerous substances at Ballymurtagh landfill (County Wicklow), Ireland has failed to comply with this Directive and with its obligations under the Treaty;
2. declare that, in failing to take all the measures necessary to comply with Articles 5, 7, 8, 10, 12, and 13 of Council Directive 80/68/EEC with regard to indirect discharges from septic tanks, Ireland has failed to comply with this Directive and with its obligations under the Treaty; and
3. order Ireland to pay the costs.

Pleas in law and main arguments

On the basis of complaints submitted to it, the Commission has become aware of widespread breaches of Council Directive 80/68/EEC in Ireland.

First, since 1989 Ireland has permitted a municipal landfill to operate at Ballymurtagh, Co. Wicklow without formal authorization being granted as required under Article 4(2) of Directive 80/68. As a consequence of not complying with Article 4(2), Article 9 of the same directive was also breached. In addition, the waste licence covering the landfill site, granted by Ireland's Environmental Protection Agency only in 2001, infringes Articles 4, 5, 7 and 10 of Directive 80/68/EEC.

Second, the Commission has uncovered evidence demonstrating that Ireland has failed to comply with Directive 80/68/EEC in relation to indirect discharges into groundwater from septic tanks. In this regard, the Commission has investigated circumstances relating to a hotel premises at Creacon Lodge, Co. Wexford, Ireland's longstanding interpretation of Article 5(1) of Directive 80/68/EEC and wider breaches of the same Directive throughout the Irish countryside. Reports on eutrophication of the Lakes of Killarney, Co. Kerry, Irish official water pollution reports, and breaches of Directive 80/778/EEC (²) on the quality of water intended for human consumption demonstrate Ireland's failure to comply with relevant provisions of Directive 80/68/EEC.