

Judgment of the Court (Third Chamber) of 5 May 2011 (reference for a preliminary ruling from the Bundesverwaltungsgericht — Germany) — Deutsche Telekom AG v Bundesrepublik Deutschland

(Case C-543/09) ⁽¹⁾

(Electronic communications — Directive 2002/22/EC — Article 25(2) — Directive 2002/58/EC — Article 12 — Provision of directory enquiry services and directories — Obligation placed on an undertaking assigning telephone numbers to pass to other undertakings data in its possession relating to the subscribers of third-party undertakings)

(2011/C 194/05)

Language of the case: German

Referring court

Bundesverwaltungsgericht

Parties to the main proceedings

Applicant: Deutsche Telekom AG

Defendant: Bundesrepublik Deutschland

Intervening parties: GoYellow GmbH, Telix AG

Re:

Reference for a preliminary ruling — Bundesverwaltungsgericht — Interpretation of Article 25(2) of Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive) (OJ 2002 L 108, p. 51) and Article 12 of Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ 2002 L 201, p. 37) — Provision of telephone directory services — Scope of the obligation imposed on an undertaking which has assigned telephone numbers to subscribers to pass on to other undertakings all the data relevant for publishing a universal directory or providing a universal information service — Data relating to subscribers of third-party undertakings

Operative part of the judgment

1. Article 25(2) of Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive) must be interpreted as not precluding national legislation under which undertakings assigning telephone numbers to end-users must make

available to undertakings whose activity consists in providing publicly available directory enquiry services and directories not only data relating to their own subscribers but also data in their possession relating to subscribers of third-party undertakings.

2. Article 12 of Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) must be interpreted as not precluding national legislation under which an undertaking publishing public directories must pass personal data in its possession relating to subscribers of other telephone service providers to a third-party undertaking whose activity consists in publishing a printed or electronic public directory or making such directories obtainable through directory enquiry services, and under which the passing on of those data is not conditional on renewed consent from the subscribers, provided, however, that those subscribers have been informed, before the first inclusion of their data in a public directory, of the purpose of that directory and of the fact that those data could be communicated to another telephone service provider and that it is guaranteed that those data will not, once passed on, be used for purposes other than those for which they were collected with a view to their first publication.

⁽¹⁾ OJ C 80, 27.3.2010.

Judgment of the Court (Third Chamber) of 12 May 2011 (reference for a preliminary ruling from the Administrativen sad Sofia-grad (Bulgaria)) — Enel Maritsa Iztok 3 AD v Direktor 'Obzhalvane i upravlenie na izpalnenieto' NAP

(Case C-107/10) ⁽¹⁾

(Reference for a preliminary ruling — VAT — Directives 77/388/EEC and 2006/112/EC — Refund — Time-limit — Interest — Set-off — Principles of fiscal neutrality and proportionality — Protection of legitimate expectations)

(2011/C 194/06)

Language of the case: Bulgarian

Referring court

Administrativen sad Sofia-grad

Parties to the main proceedings

Applicant: Enel Maritsa Iztok 3 AD

Defendant: Direktor „Obzhalvane i upravlenie na izpalnenieto“ NAP