

4. In any event, is a national court obliged to declare the inconsistency of a national measure with the provisions of Article 15 of the Directive 2002/58/EC, if the national measure makes provision for a general data retention regime for the purpose of combating serious crime, and where the national court has concluded, on all the evidence available, that such retention is both essential and strictly necessary to the achievement of the objective of combating serious crime?
5. If a national court is obliged to conclude that a national measure is inconsistent with the provisions of Article 15 of Directive 2002/58/EC, as interpreted in the light of the Charter, is it entitled to limit the temporal effect of any such declaration, if satisfied that a failure to do so would lead to 'resultant chaos and damage to the public interest' (in line with the approach taken, for example, in *R (National Council for Civil Liberties) v Secretary of State for Home Department and Secretary of State for Foreign Affairs* [2018] EWHC 975, at para. 46)?
6. May a national court invited to declare the inconsistency of national legislation with Article 15 of the Directive 2002/58/EC, and/or to disapply this legislation, and/or to declare that the application of such legislation had breached the rights of an individual, either in the context of proceedings commenced in order to facilitate an argument in respect of the admissibility of evidence in criminal proceedings or otherwise, be permitted to refuse such relief in respect of data retained pursuant to the national provision enacted pursuant to the obligation under Article 288 TFEU to faithfully introduce into national law the provisions of a directive, or to limit any such declaration to the period after the declaration of invalidity of the Directive 2006/24/EC issued by the CJEU on the 8th day of April, 2014?

(¹) 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 (OJ 2002, L 201, p. 37).

(²) Directive 2006/24/EC of the European Parliament and of the Council of 15 March 2006 on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks and amending Directive 2002/58/EC (OJ 2006, L 105, p. 54).

**Request for a preliminary ruling from the Bundesfinanzgericht (Austria) lodged on 16 April 2020 —
AZ v Finanzamt Hollabrunn Korneuburg Tulln**

(Case C-163/20)

(2020/C 247/11)

Language of the case: German

Referring court

Bundesfinanzgericht

Parties to the main proceedings

Applicant: AZ

Defendant: Finanzamt Hollabrunn Korneuburg Tulln

Question referred

Are Articles 18 and 45(1) of the Treaty on the Functioning of the European Union, Article 7(1) and (2) of Regulation (EU) No 492/2011 (¹) of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union, Article 4, Article 5(b), Article 7 and Article 67 of Regulation (EC) No 883/2004 (²) of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems and the second sentence of Article 60(1) of Regulation (EC) No 987/2009 (³) of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems to be interpreted as precluding the application of national legislation which provides that family benefits for a child who is not actually permanently resident in the Member State that pays those family benefits, but is actually resident in another Member State of the European Union, in another contracting party to the Agreement on the European Economic Area or in Switzerland, must be adjusted on the basis of the comparative price levels, published by the Statistical Office of the European Union, for the State concerned in relation to the Member State that pays the family benefits?

(¹) Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union (OJ 2011 L 141, p. 1).

(²) Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (OJ 2004 L 166, p. 1).

(³) Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems (OJ 2009 L 284, p. 1).