

Questions referred

1. Do Article 12(2)(a) and (d) of Directive 2003/6/EC of the European Parliament and of the Council of 28 January 2003 on insider dealing and market manipulation ⁽¹⁾ and Article 23(2)(g) and (h) of Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse, ⁽²⁾ which replaced that directive from 3 July 2016, read in the light of recital 65 of that regulation, not imply that, account being taken of the covert nature of the information exchanged and the fact that the potential subjects of investigation are members of the general public, the national legislature must be able to require electronic communications operators to retain connection data on a temporary but general basis in order to enable the administrative authority referred to in Article 11 of the Directive and Article 22 of the regulation, in the event of the emergence of grounds for suspecting certain persons of being involved in insider dealing or market manipulation, to require the operator to surrender existing records of traffic data in cases where there are reasons to suspect that the records so linked to the subject matter of the investigation may prove relevant to the production of evidence of the actual commission of the breach, to the extent, in particular, that they offer a means of tracing the contacts established by the persons concerned before the suspicions emerged?
2. If the answer given by the Court of Justice is such as to prompt the Cour de cassation (Court of Cassation) to form the view that the French legislation on the retention of connection data is not consistent with EU law, could the effects of that legislation be temporarily maintained in order to avoid legal uncertainty and to enable data previously collected and retained to be used for one of the objectives of that legislation?
3. May a national court temporarily maintain the effects of legislation enabling the officials of an independent administrative authority responsible for investigating market abuse to obtain access to obtain connection data without prior review by a court or another independent administrative authority?

⁽¹⁾ OJ 2003 L 96, p. 16.

⁽²⁾ Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC (OJ 2014 L 173, p. 1).

Request for a preliminary ruling from the Verwaltungsgericht Wien (Austria) lodged on 31 July 2020 — IE v Magistrat der Stadt Wien

(Case C-357/20)

(2020/C 359/08)

Language of the case: German

Referring court

Verwaltungsgericht Wien

Parties to the main proceedings

Applicant: IE

Defendant: Magistrat der Stadt Wien

Questions referred

1. How is the term 'breeding site' within the meaning of Article [12(1)(d)] of the Habitats Directive ⁽¹⁾ to be understood, and how is a 'breeding site' to be differentiated spatially from other locations?
2. Which factors determine whether, and, if so, for how long, the existence of a breeding site is limited in time?
3. Which factors determine whether deterioration or destruction of a breeding site has been caused by a particular act or omission?

4. Which factors determine whether a 'resting place' within the meaning of Article [12(1)(d)] of the Habitats Directive has been caused to deteriorate or to be destroyed?

(¹) Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ 1992 L 206, p. 7) as last amended by Council Directive 2013/17/EU of 13 May 2013 adapting certain directives in the field of environment, by reason of the accession of the Republic of Croatia (OJ 2013 L 158, p. 193).

Request for a preliminary ruling from the Tribunal Superior de Justicia de Cataluña (Spain) lodged on 5 August 2020 — CZ v Tribunal Económico-Administrativo Regional de Catalunya (TEAR de Catalunya)

(Case C-366/20)

(2020/C 359/09)

Language of the case: Spanish

Referring court

Tribunal Superior de Justicia de Cataluña (High Court of Justice, Catalonia, Spain)

Parties to the main proceedings

Applicant: CZ

Defendant: Tribunal Económico-Administrativo Regional de Catalunya (Regional Tax Tribunal of Catalonia) (TEAR de Catalunya)

Questions referred

1. Is a provision of national law such as Article 39(2) of the Ley del Impuesto sobre la Renta de las Personas Físicas (Income Tax Law) 35/2006 of 28 November 2006, as amended by Article 3(2) of Law 7/2012 of 29 October 2012, which 'in all cases' classes [goods, assets or rights] as 'unjustified capital gains', on which tax must be paid in the earliest period which has not yet become time-barred, in the event of failure to comply with the formal aspects of the requirement to provide information via 'Form 720' on goods located abroad or rights and assets deposited abroad, or where the information is submitted late, without having regard to the rules on limitation established in the Ley General Tributaria (General Tax Law) 58/2003, other than in the cases of 'declared income' or income arising in periods during which the individual was not a tax resident in Spain, contrary to EU law, specifically Articles 63 and 65 TFEU and the fundamental principles of free movement, equal treatment and non-discrimination?
2. If the reply is in the negative, on the grounds that it is proportionate, is a provision of national law such as Article 39(2) of the Income Tax Law 35/2006 of 28 November 2006, which has the consequences set out above, contrary to EU law, specifically Articles 63 and 65 TFEU and the fundamental principles of free movement, equal treatment, non-discrimination and proportionality, where the income in question has been declared late, but before any form of tax audit has been commenced or notified and no tax information exchange request has been made, although there is such an arrangement in place with the third-party State?

Request for a preliminary ruling from the Satversmes tiesa (Latvia) lodged on 29 July 2020 — Boriss Cilevičs and Others v Latvijas Republikas Saeima

(Case C-391/20)

(2020/C 359/10)

Language of the case: Latvian

Referring court

Satversmes tiesa