

— reserves application of a tax-free amount to domestic agricultural land and forestry in relation to those assets and takes account of their remaining value in the amount of only 60 % thereof.

(<sup>1</sup>) OJ C 224, 16.9.2006.

**Judgment of the Court (Second Chamber) of 24 January 2008 (reference for a preliminary ruling from the Corte suprema di cassazione (Italy)) — Roby Profumi Srl v Comune di Parma**

(Case C-257/06) (<sup>1</sup>)

*(Article 28 EC — Directive 76/768/EEC — Protection of health — Cosmetic products — Importation — Communication of information on cosmetic products to the authorities of the State of importation)*

(2008/C 64/11)

Language of the case: Italian

#### Referring court

Corte suprema di cassazione

#### Parties to the main proceedings

Appellant: Roby Profumi Srl

Respondent: Comune di Parma

#### Re:

Reference for a preliminary ruling — Corte suprema di cassazione — Interpretation of Article 28 EC and Article 7 of Council Directive 76/768/EEC of 27 July 1976 on the approximation of the laws of the Member States relating to cosmetic products (OJ 1976 L 262, p. 169), as amended by Council Directive 93/35/EEC of 14 June 1993 (OJ 1993 L 151, p. 32) — Ready-for-sale products imported from other Member States — National provisions requiring importers to communicate a full and detailed list of the substances contained in the product

#### Operative part of the judgment

Article 7 of Council Directive 76/768/EEC of 27 July 1976 on the approximation of the laws of the Member States relating to cosmetic products, as amended by Council Directive 93/35/EEC of 14 June 1993, does not preclude a national provision which, in the interests of prompt and appropriate medical treatment in the event of difficulties, requires the importer of cosmetic products to communicate to the Ministry of Health and to the Region the name or the corporate name of the business, its registered office and that of the manufacturing

plant, and a full and detailed list of the substances used and the substances contained in those products.

(<sup>1</sup>) OJ C 212, 2.9.2006.

**Judgment of the Court (Grand Chamber) of 29 January 2008 (Reference for a preliminary ruling from the Juzgado de lo Mercantil No 5 de Madrid — Spain) — Productores de Música de España (Promusicae) v Telefónica de España SAU**

(Case C-275/06) (<sup>1</sup>)

*(Information society — Obligations of providers of services — Retention and disclosure of certain traffic data — Obligation of disclosure — Limits — Protection of the confidentiality of electronic communications — Compatibility with the protection of copyright and related rights — Right to effective protection of intellectual property)*

(2008/C 64/12)

Language of the case: Spanish

#### Referring court

Juzgado de lo Mercantil No 5 de Madrid

#### Parties to the main proceedings

Applicant: Productores de Música de España (Promusicae)

Defendant: Telefónica de España SAU

#### Re:

Reference for a preliminary ruling — Juzgado de lo Mercantil no 5, Madrid, Spain — Interpretation of Articles 15(2) and 18 of Directive 2001/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ 2000 L 178, p. 1), Article 8 (1) and (2) of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society (OJ 2001 L 167, p. 10) and Article 8 of Directive 2004/48/EC of the European Parliament and the Council of 29 April 2004 on the enforcement of intellectual property rights (OJ 2004 L 157, p. 45) — Treatment of data generated by communications made in the context of the supply of an information society service — Duty of operators of electronic communications networks and services, providers of telecommunications network access and providers of data storage services to retain and make available such data — Not where civil proceedings are concerned.

**Operative part of the judgment**

Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce'), Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society, Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights, and 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) do not require the Member States to lay down, in a situation such as that in the main proceedings, an obligation to communicate personal data in order to ensure effective protection of copyright in the context of civil proceedings. However, Community law requires that, when transposing those directives, the Member States take care to rely on an interpretation of them which allows a fair balance to be struck between the various fundamental rights protected by the Community legal order. Further, when implementing the measures transposing those directives, the authorities and courts of the Member States must not only interpret their national law in a manner consistent with those directives but also make sure that they do not rely on an interpretation of them which would be in conflict with those fundamental rights or with the other general principles of Community law, such as the principle of proportionality.

(<sup>1</sup>) OJ C 212, 2.9.2006.

**Judgment of the Court (Third Chamber) of 24 January 2008 (reference for a preliminary ruling from the Court of Appeal (England and Wales) (Civil Division) (United Kingdom)) — The Queen, on the application of Ezgi Payir, Burhan Akyuz, Birol Ozturk v Secretary of State for the Home Department**

(Case C-294/06) (<sup>1</sup>)

*(EEC-Turkey Association Agreement — Freedom of movement for workers — Decision No 1/80 of the Association Council — First indent of Article 6(1) — Worker duly registered as belonging to the labour force — Leave to enter as a student or as an au pair — Effect on the right to remain)*

(2008/C 64/13)

Language of the case: English

**Referring court**

Court of Appeal

**Parties to the main proceedings**

**Applicants:** The Queen, on the application of Ezgi Payir, Burhan Akyuz, Birol Ozturk

**Defendant:** Secretary of State for the Home Department

**Re:**

Reference for a preliminary ruling — Court of Appeal — Interpretation of Article 6(1) of Decision No 1/80 of the EEC-Turkey Association Council — Concept of a worker duly registered as belonging to the labour force of a Member State — Turkish national employed as an au pair after obtaining leave to remain for two years in order to pursue that activity — Turkish nationals holding leave to remain to follow a course of study and holding permission to work for a maximum of 20 hours per week during term time

**Operative part of the judgment**

*The fact that a Turkish national was granted leave to enter the territory of a Member State as an au pair or as a student cannot deprive him of the status of 'worker' and prevent him from being regarded as 'duly registered as belonging to the labour force' of that Member State within the meaning of Article 6(1) of Decision No 1/80 of the Association Council of 19 September 1980 on the development of the Association. Accordingly, that fact cannot prevent that national from being able to rely on that provision for the purposes of obtaining renewed permission to work and a corollary right of residence.*

(<sup>1</sup>) OJ C 237, 30.9.2006.

**Judgment of the Court (Second Chamber) of 10 January 2008 — Commission of the European Communities v Republic of Finland**

(Case C-387/06) (<sup>1</sup>)

*(Failure of a Member State to fulfil its obligations — Telecommunications sector — Article 8(1), (2)(b) and 3(c) of Directive 2002/19/EC ('Framework' Directive) — Article 8(1) and (4) of Directive 2002/19/EC ('Access' Directive) — Electronic communications networks and services — Fixed and mobile telephone networks — Termination of calls — Incoming traffic — Limit on the powers of the national authority for communications regulation)*

(2008/C 64/14)

Language of the case: Finnish

**Parties**

**Applicant:** Commission of the European Communities (represented by: M. Huttunen and M. Shotter, Agents)