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(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Judgment of the Court (Grand Chamber) of 5 June 2018 (request for a preliminary ruling from the Spetsializiran nakazatelen sad — Bulgaria) — Criminal proceedings against Nikolay Kolev, Milko Hristov, Stefan Kostadinov

(Case C-612/15) ⁽¹⁾

(Reference for a preliminary ruling — Article 325 TFEU — Fraud or any other illegal activities affecting the financial interests of the European Union in customs matters — Effectiveness of prosecution — Closure of criminal proceedings — Reasonable time — Directive 2012/13/EU — Right of a person to be informed of the charges against him — Right of access to case materials — Directive 2013/48/EU — Right of access to a lawyer)

(2018/C 268/02)

Language of the case: Bulgarian

Referring court

Spetsializiran nakazatelen sad

Parties in the main proceedings

Nikolay Kolev, Milko Hristov, Stefan Kostadinov

Operative part of the judgment

1. Article 325(1) TFEU must be interpreted as precluding national legislation that establishes a procedure for the termination of criminal proceedings, such as that provided for in Articles 368 and 369 of the Nakazatelno protsesualen kodeks (Code of Criminal Procedure), in so far as that legislation is applicable in proceedings initiated with respect to cases of serious fraud or other serious illegal activities affecting the financial interests of the European Union in customs matters. It is for the national courts to give full effect to Article 325(1) TFEU, by disapplying that legislation, where necessary, while also ensuring respect for the fundamental rights of the persons accused.
2. Article 6(3) of Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings must be interpreted as not precluding the disclosure of detailed information on the charges to the defence after the lodging before the court of the indictment that initiates the trial stage of proceedings, but before the court begins to examine the merits of the charges and before the commencement of any hearing of argument by the court, and after the commencement of that hearing but before the stage of deliberation, where the information thus disclosed is the subject of subsequent amendments, provided that all necessary measures are taken by the court in order to ensure respect for the rights of the defence and the fairness of the proceedings.

Article 7(3) of that directive must be interpreted as meaning that it is for the national court to be satisfied that the defence has been granted a genuine opportunity to have access to the case materials, such access being possible, in some cases, after the lodging before the court of the indictment that initiates the trial stage of the proceedings, but before that court begins to examine the merits of the charges and before the commencement of any hearing of argument by that court, and after the commencement of that hearing but before the stage of deliberation where new evidence is placed in the file in the course of proceedings, provided that all necessary measures are taken by the court in order to ensure respect for the rights of the defence and the fairness of the proceedings.

3. Article 3(1) of Directive 2013/48/EU of the European Parliament and of the Council of 22 October 2013 on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty, must be interpreted as not precluding national legislation that requires a national court to dismiss the lawyer instructed by two accused persons, against their wishes, on the ground that there is a conflict of interest between those persons and, further, as not precluding the court from allowing those persons to instruct a new lawyer or, when necessary, itself naming two court-appointed lawyers, to replace the first lawyer.

⁽¹⁾ OJ C 48, 8.2.2016.

Judgment of the Court (Grand Chamber) of 5 June 2018 (request for a preliminary ruling from the Bundesverwaltungsgericht — Germany) — Unabhängiges Landeszentrum für Datenschutz Schleswig-Holstein v Wirtschaftsakademie Schleswig-Holstein GmbH

(Case C-210/16) ⁽¹⁾

(Reference for a preliminary ruling — Directive 95/46/EC — Personal data — Protection of natural persons with respect to the processing of that data — Order to deactivate a Facebook page (fan page) enabling the collection and processing of certain data of visitors to that page — Article 2(d) — Controller responsible for the processing of personal data — Article 4 — Applicable national law — Article 28 — National supervisory authorities — Powers of intervention of those authorities)

(2018/C 268/03)

Language of the case: German

Referring court

Bundesverwaltungsgericht

Parties to the main proceedings

Applicant: Unabhängiges Landeszentrum für Datenschutz Schleswig-Holstein

Defendant: Wirtschaftsakademie Schleswig-Holstein GmbH

Interveners: Facebook Ireland Ltd, Vertreter des Bundesinteresses beim Bundesverwaltungsgericht

Operative part of the judgment

1. Article 2(d) of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data must be interpreted as meaning that the concept of 'controller' within the meaning of that provision encompasses the administrator of a fan page hosted on a social network.
2. Articles 4 and 28 of Directive 95/46 must be interpreted as meaning that, where an undertaking established outside the European Union has several establishments in different Member States, the supervisory authority of a Member State is entitled to exercise the powers conferred on it by Article 28(3) of that directive with respect to an establishment of that undertaking situated in the territory of that Member State even if, as a result of the division of tasks within the group, first, that establishment is responsible solely for the sale of advertising space and other marketing activities in the territory of that Member State and, second, exclusive responsibility for collecting and processing personal data belongs, for the entire territory of the European Union, to an establishment situated in another Member State.