



## **European Union legislation on the publication of information relating to the beneficiaries of European agricultural funds is partially invalid**

*The obligation to publish the names of natural persons who are beneficiaries of such aid and the exact amounts which they have received constitutes, with regard to the objective of transparency, a disproportionate measure*

EU law on the financing of expenditure coming under the common agricultural policy provides that Member States are to ensure the annual *ex-post* publication of the names of beneficiaries of the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD) and of the amounts received by each beneficiary under each of those Funds<sup>1</sup>.

The website of the German Federal Office for Agriculture and Food ('the Bundesanstalt') makes available to the public the names of beneficiaries of aid from the EAGF and the EAFRD, the place in which those beneficiaries are established or reside and the postcode of that place, in addition to the annual amounts received. This site also has a search tool.

Volker und Markus Schecke GbR, an agricultural firm (Case C-92/09), and Hartmut Eifert, a full-time farmer (Case C-93/09), applied, for the financial year 2008, to the competent local authorities for funds from the EAGF or the EAFRD. Their respective applications were approved by decisions of December 2008.

In their respective actions, Volker und Markus Schecke GbR and Hartmut Eifert ask the Verwaltungsgericht (Administrative Court) Wiesbaden (Germany) to require the *Land* of Hesse not to publish the data relating to them. As it takes the view that the European Union rules which impose on the Bundesanstalt the obligation to publish those data amount to an unjustified interference with the fundamental right to the protection of personal data, the national court has requested the Court of Justice to examine the validity of those rules.

The Court notes, first, that the right to respect for private life with regard to the processing of personal data, which is recognised by the Charter of Fundamental Rights of the European Union, concerns any information relating to an identified or identifiable individual and, second, that the limitations which may lawfully be imposed on the right to the protection of personal data correspond to those which are tolerated under the European Convention for the Protection of Human Rights and Fundamental Freedoms.

The Court then goes on to note that publication on a website of data naming the beneficiaries of EAGF and EAFRD aid and indicating the precise amounts received by them constitutes, by reason of the fact that those data become available to third parties, an interference with the right of those beneficiaries to respect for their private life, in general, and to the protection of their personal data,

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<sup>1</sup> Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy (OJ 2005 L 209, p. 1), as amended by Council Regulation (EC) No 1437/2007 of 26 November 2007 (OJ 2007 L 322, p. 1), and Commission Regulation (EC) No 259/2008 of 18 March 2008 laying down detailed rules for the application of Regulation No 1290/2005 as regards the publication of information on the beneficiaries of funds deriving from the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD) (OJ 2008 L 76, p. 28).

in particular. In order to be justified, such interference must be provided for by law, must respect the essence of those rights and, subject to compliance with the principle of proportionality, must be necessary and genuinely meet objectives of general interest recognised by the European Union or the need to protect the rights and freedoms of others. Moreover, derogations and limitations in relation to the protection of personal data may apply only in so far as they are strictly necessary.

In this context, the Court takes the view that, while it is true that in a democratic society taxpayers have a right to be kept informed of the use made of public funds, the fact none the less remains that the striking of a proper balance between the various interests involved made it necessary for the institutions concerned, before adopting the disputed provisions, to ascertain whether publication via a single freely consultable website in each Member State of data naming each of the beneficiaries concerned and the precise amounts received by each of them from the EAGF and the EAFRD – with no distinction being drawn according to the duration, frequency or nature and amount of the aid received – did not go beyond what was necessary for achieving the legitimate aims pursued. As far as natural persons benefiting from aid under the EAGF and the EAFRD are concerned, however, it does not appear that the Council and the Commission sought to strike such a balance.

The Court accordingly concludes that, **by imposing an obligation to publish personal data relating to each natural person who was a beneficiary of aid under the EAGF and the EAFRD without drawing a distinction based on relevant criteria such as the periods during which those persons received such aid, the frequency of such aid or the nature and amount thereof, the Council and the Commission exceeded the limits imposed by compliance with the principle of proportionality. To that extent, it is thus necessary to declare invalid certain provisions of Regulation No 1290/2005 and to declare Regulation No 259/2008 invalid in its entirety.**

In view of the large number of publications which have taken place in the Member States on the basis of rules which were regarded as being valid, the Court accepts that **the invalidity of those provisions which has thus been established cannot allow any action to be brought to challenge the effects of the publication of the lists of beneficiaries of EAGF and EAFRD aid carried out by the national authorities during the period prior to the date on which the judgment in the present cases is delivered.**

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**NOTE:** A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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