

## Case C-48/16. Commercial agents

ERGO Poist'ovňa, a.s. – v – Alžbeta Barlíková,  
reference lodged by the Slovak Okresný súd  
Dunajská Streda on 27 January 2016

Must the expression ‘*the contract between the third party and the principal will not be executed*’ in Article 11 of Council Directive 86/653 on the coordination of the laws of the Member States relating to self-employed commercial agents be interpreted as meaning:

- a. complete non-execution of the contract, that is, neither the principal nor the third party even partly performs what is provided for in the contract, or
- b. even partial non-execution of the contract, that is, the volume of transactions envisaged is not achieved, for example, or the contract will not last for the time envisaged?

If the interpretation in indent (b) of Question 1 is correct, must Article 11(2) of Directive 86/653 be interpreted as meaning that a provision in a contract for commercial agency under which the agent is obliged to return a proportionate part of his commission if the contract between the principal and the third party is not executed to the extent envisaged, or to the extent defined by the contract for commercial agency, is not a derogation to the detriment of the agent?

In the cases concerned in the main proceedings, when assessing whether ‘*the principal is to blame*’ within the meaning of the second indent of Article 11(1) of Directive 86/653,

- a. may only legal reasons leading directly to termination of the contract be considered (for example, the contract ceases as a result of the non-performance of an obligation under it by the third party), or
- b. may it also be considered whether those legal reasons were not the result of the conduct of the principal in the legal relationship with that third party which induced the third party to lose confidence in the principal and consequently to breach an obligation under the contract with the principal?

## Case C-73/16. Data protection

Peter Puškár – v – Finančné riaditeľstvo Slovenskej republiky, Kriminálny úrad finančnej správy,  
reference lodged by the Slovakian Najvyšší súd  
Slovenskej republiky on 10 February 2016

Does Article 47(1) of the Charter of Fundamental Rights of the European Union, under which everyone whose rights, in particular their right to privacy with respect to the processing of personal data laid down in Article 1(1) et seq. of Directive 95/46/EC 1 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 [‘Directive 95/46/EC’], are violated has the right to an effective remedy before a tribunal in compliance with the conditions laid down in Article 47 of that Charter, preclude a provision of national law which renders the exercise of an effective remedy before a tribunal, that is the submission of an application in administrative proceedings, conditional on the fact that the applicant, to protect his rights and freedoms, must have exhausted beforehand the procedures available to him under specific legislation, such as the Slovak Law on Administrative Complaints?

Is it possible to interpret the right to respect for private and family life, home and communications, laid down in Article 7 of the Charter of Fundamental Rights of the European Union, and the right to the protection of personal data laid down in Article 8 thereof to the effect that, where there is an alleged infringement of the right to the protection of personal data, which, with respect to the European Union, is implemented primarily through Directive 95/46/EC, and entails, in particular:

the obligation on Member States to protect the right to privacy of persons with respect to the processing of their personal data (Article [1](1)) and,  
the authorisation conferred on Member States to process personal data where the processing is necessary for the performance of a task carried out in the public interest (Article 7, point (e)) or the processing is necessary for the purposes of the legitimate interests pursued by the controller or by the third party or parties to whom the data are disclosed,  
and having regard to the authorisation [to restrict that right], by way of an exception, conferred on a Member State (Article 13(1)(e) and (f)), when such a