

SUMMARY

ECJ 19 June 2014, case C-683/13 (Pharmaceuticals and others v Autoridade Para As Condições do Trabalho), Miscellaneous, Data protection

Facts, national proceedings and ECJ's findings

These are materially identical to the facts, national proceedings and findings in the Worten case (C-342/12), summarized in EELC 2013-4.

They relate to a provision of Portuguese law which requires every employer to keep a record of hours worked by each of their employees in a location that is accessible and in such a way that it can be consulted immediately. The record must set out the times when the working hours begin and end, as well as breaks, so as to allow calculation of the number of hours worked by each employee. The law gives ACT inspectors the right to demand immediate examination of all relevant documents. ACT is the Portuguese Authority for Working Conditions.

Ruling

Article 2(a) of Directive 95/46 [...] on the protection of individuals with regard to the processing of personal data and on the free movement of such data is to be interpreted as meaning that a record of working time, such as that at issue in the main proceedings, which indicates, in relation to each worker, the times when working hours begin and end, as well as the corresponding breaks and intervals, is covered by the concept of 'personal data' as referred

to in that provision.

Article 6(1)(b) and (c) and Article 7(c) and (e) of Directive 95/46 must be interpreted as not precluding national legislation, such as that at issue in the main proceedings, which requires an employer to make the record of working time available to the national authority responsible for monitoring working conditions so as to allow for it to be consulted immediately, provided that this obligation is necessary for the purposes of the performance by that authority of its task of monitoring the application of the legislation relating to working conditions, in particular as regards working time.

It is for the referring court to determine whether the employer's obligation to provide the national authority responsible for monitoring working conditions access to the record of working time so as to allow its immediate consultation may be considered necessary for the purposes of the performance by that authority of its monitoring task, by contributing to the more effective application of the legislation relating to working conditions, in particular as regards working time, and, if so, whether the penalties imposed with a view to ensuring the effective application of the requirements laid down by Directive 2003/88 [...], concerning certain aspects of the organisation of working time, are consistent with the principle of proportionality.

Creator: European Court of Justice (ECJ)

Verdict at: 2014-06-19

Case number: C-683/13