ORDER OF THE PRESIDENT OF THE COURT

12 September 2007 *

In Case C-73/07,

REFERENCE for a preliminary ruling under Article 234 EC, by the Korkein hallinto-oikeus (Finland), made by decision of 8 February 2007, received at the Court on 12 February 2007, in the proceedings

Tietosuojavaltuutettu

v

Satakunnan Markkinapörssi Oy and Satamedia Oy,

THE PRESIDENT OF THE COURT,

having regard to the proposal by E. Levits, Judge-Rapporteur,

after hearing the Advocate General, J. Kokott,

* Language of the case: Finnish.

makes the following

Order

1 By application of 7 June 2007, the European Data Protection Supervisor ('the Supervisor') applied for leave to intervene in the present proceedings in order to submit observations on the questions referred for a preliminary ruling by the Korkein hallinto-oikeus.

2 The application was submitted on the basis of Article 47(1)(i) of Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ 2001 L 8, p. 1).

3 In support of his application the Supervisor submitted that the Court had, in previous orders, recognised his right to intervene in cases before it. In that connection, the Supervisor refers to the orders of 17 March 2005 in Case C-317/04 *Parliament* v *Council* [2005] ECR I-2457, and Case C-318/04 *Parliament* v *Commission* [2005] ECR I-2467.

4 In those cases the Court granted the Supervisor leave to intervene, even though he is not mentioned on the list in Article 7(1) EC, and even though that right cannot be based either on Article 7(1) EC or on Article 40 of the Statute of the Court of Justice. The Court found that Article 47(1)(i) of Regulation No 45/2001 constituted an adequate legal basis.

5 It also follows from those orders that the Supervisor's right to intervene is circumscribed by the limits of the task entrusted to him. As set out in Article 41(2) of Regulation No 45/2001, that task consists, inter alia, in advising Community institutions and bodies as well as data subjects on all matters concerning the processing of personal data.

6 The questions submitted to the Court in these proceedings concern the interpretation of Articles 3(1), 9 and 17 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 (OJ 1995 L 281, p. 31). According to Article 1 thereof, the directive seeks to ensure that Member States protect the fundamental rights and freedoms of natural persons, and in particular their right to privacy with respect to the processing of personal data.

7 The Supervisor submits that the subject-matter of the reference for a preliminary ruling is thus clearly within the limits of the task conferred on him.

8 With regard to the Supervisor's application for leave to intervene in these proceedings, it must be recalled that the right to intervene before the Court is governed by Article 40 of its Statute, which recognises the right of natural or legal persons to intervene if they can establish an interest in the result of a case which has been submitted to the Court. Article 40 also provides that submissions made in an application to intervene must be limited to supporting the form of order sought by one of the parties. It therefore applies to contentious proceedings before the Court designed to resolve a dispute (see the orders of the President of the Court of

30 March 2004 in Case C-453/03 *ABNA and Others*, not published in the ECR, paragraph 14, of 25 May 2004 in Case C-458/03 *Parking Brixen*, not published in the ECR, paragraph 5, and of 9 June 2006 in Case C-305/05 *Ordre des barreaux francophones et germanophone and Others (Application of the French Bar)*, not published in the ECR, paragraph 7).

9 Article 234 EC, pursuant to which this action was brought, does not envisage contentious proceedings designed to resolve a dispute, but prescribes a procedure whose aim is to ensure a uniform interpretation of Community law by cooperation between the Court of Justice and the national courts and which enables the latter to seek the interpretation of the Community provisions which they will apply to the actions brought before them (see, to that effect, the judgment in Case 62/72 *Bollmann* [1973] ECR 269, paragraph 4, and the orders of the President of the Court of 2 May 2006 in Case C-306/05 *SGAE*, not published in the ECR, paragraph 4, and *Ordre des barreaux francophones et germanophone and Others*, paragraph 8).

10 It follows that intervention in preliminary ruling proceedings is not possible (see orders of the President of the Court of 3 June 1964 in Case 6/64 *Costa* [1964] ECR 614, and *Ordre des barreaux francophones et germanophone and Others*, paragraph 9).

11 Participation in the proceedings in the cases covered by Article 234 EC is governed by Article 23 of the Statute of the Court of Justice, which limits the right to submit statements of case or observations to the Court to the parties, the Member States, the Commission of the European Communities and, where appropriate, the Council of the European Union, the European Parliament and the European Central Bank, to the States, other than the Member States, which are parties to the Agreement on the European Economic Area, the EFTA Surveillance Authority and non-member States. By the expression 'parties', Article 23 refers only to the parties to the action before the national court (see, to that effect, the judgment in *Bollmann*, paragraph 4, and the order of the President of the Court in *SGAE*, paragraph 5).

12 Since the Supervisor is not expressly mentioned in Article 23 of the Statute of the Court of Justice, and since, in the main proceedings, he is not a 'party' for the purposes of that article, he is not entitled to submit observations to the Court on the questions referred by the national court for a preliminary ruling.

13 Since the application submitted by the Supervisor cannot be allowed either under Article 40 of the Statute of the Court of Justice or under Article 23 thereof, it must be dismissed as inadmissible.

Costs

14 There is no need to rule on costs as none have been incurred.

On those grounds,

THE PRESIDENT OF THE COURT

hereby orders:

1. **The application for leave to intervene submitted by the European Data Protection Supervisor is dismissed as inadmissible.**

2. There is no need to rule on costs.

[Signatures]