

Judgment of the Court (Fourth Chamber) of 5 June 2014 (request for a preliminary ruling from the Supreme Court of the United Kingdom — United Kingdom) — Public Relations Consultants Association Ltd v The Newspaper Licensing Agency Ltd and Others

(Case C-360/13) ⁽¹⁾

(Copyright — Information Society — Directive 2001/29/EC — Article 5(1) and (5) — Reproduction — Exceptions and limitations — Creation of copies of an internet site on-screen and in the cache of the hard disk in the course of browsing the internet — Temporary act of reproduction — Transient or incidental act — Integral and essential part of a technological process — Lawful use — Independent economic significance)

(2014/C 253/16)

Language of the case: English

Referring court

Supreme Court of the United Kingdom

Parties to the main proceedings

Appellant: Public Relations Consultants Association Ltd

Respondents: The Newspaper Licensing Agency Ltd and Others

Re:

Request for a preliminary ruling — Supreme Court of the United Kingdom — Interpretation of Article 5(1) of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society (OJ 2001 L 167, p. 10) — Reproduction right — Exceptions and limitations — Concept of temporary, transient or incidental acts of reproduction which constitute an integral and essential part of a technological process — Reproduction of a webpage which is automatically stored in the memory cache and on the screen of a computer

Operative part of the judgment

Article 5 of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society must be interpreted as meaning that the copies on the user's computer screen and the copies in the internet 'cache' of that computer's hard disk, made by an end-user in the course of viewing a website, satisfy the conditions that those copies must be temporary, that they must be transient or incidental in nature and that they must constitute an integral and essential part of a technological process, as well as the conditions laid down in Article 5(5) of that directive, and that they may therefore be made without the authorisation of the copyright holders.

⁽¹⁾ OJ C 260, 7.9.2013.

Judgment of the Court (Grand Chamber) of 27 May 2014 (request for a preliminary ruling from the Oberlandesgericht Nürnberg — Germany) — Criminal proceedings against Zoran Spasic

(Case C-129/14 PPU) ⁽¹⁾

(Reference for a preliminary ruling — Urgent preliminary ruling procedure — Police and judicial cooperation in criminal matters — Charter of Fundamental Rights of the European Union — Articles 50 and 52 — Ne bis in idem principle — Convention Implementing the Schengen Agreement — Article 54 — Penalty which 'has been enforced' or which is 'actually in the process of being enforced')

(2014/C 253/17)

Language of the case: German

Referring court

Oberlandesgericht Nürnberg

Party in the main proceedings

Zoran Spasic

Re:

Request for a preliminary ruling — Oberlandesgericht Nürnberg — Interpretation of Article 54 of the Convention Implementing the Schengen Agreement in conjunction with Article 50 of the Charter of Fundamental Rights — 'Ne bis in idem' principle — Condition that the penalty has been enforced, is actually in the process of being enforced or can no longer be enforced under the laws of the sentencing Contracting Party — Person having been convicted and penalised by a custodial sentence and a fine for the same facts in another Member State, but not having served his prison sentence.

Operative part of the judgment

- 1) *Article 54 of the Convention Implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders, signed on 19 June 1990 and entered into force on 26 March 1995, which makes the application of the ne bis in idem principle subject to the condition that, upon conviction and sentencing, the penalty imposed 'has been enforced' or is 'actually in the process of being enforced', is compatible with Article 50 of the Charter of Fundamental Rights of the European Union, in which that principle is enshrined.*
- 2) *Article 54 of that convention must be interpreted as meaning that the mere payment of a fine by a person sentenced by the self-same decision of a court of another Member State to a custodial sentence that has not been served is not sufficient to consider that the penalty 'has been enforced' or is 'actually in the process of being enforced' within the meaning of that provision.*

⁽¹⁾ OJ C 151, 19.5.2014.

Judgment of the Court (Third Chamber) of 5 June 2014 (request for a preliminary ruling from the Administrativen sad Sofia-grad — Bulgaria) — Bashir Mohamed Ali Mahdi

(Case C-146/14 PPU) ⁽¹⁾

(Visas, asylum, immigration and other policies related to free movement of persons — Directive 2008/115/EC — Return of illegally staying third-country nationals — Article 15 — Detention — Extension of detention — Obligations of the administrative or judicial authority — Review by a judicial authority — Third-country national without identity documents — Obstacles to implementation of a removal decision — Refusal of the embassy of the third country concerned to issue an identity document enabling the third-country national to be returned — Risk of absconding — Reasonable prospect of removal — Lack of cooperation — Whether the Member State concerned is under an obligation to issue a temporary document relating to the status of the person concerned)

(2014/C 253/18)

Language of the case: Bulgarian

Referring court

Administrativen sad Sofia-grad

Party to the main proceedings

Bashir Mohamed Ali Mahdi

Re:

Request for a preliminary ruling — Administrativen sad Sofia-grad — Interpretation of Article 15(1)(a) and (b), (3), (4) and (6) of Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ 2008 L 348, p. 98) and of Articles 6 and 47 of the Charter of Fundamental Rights of the European Union — Removal of an illegally staying third-country national — Detention — Extension of detention — Whether permissible to exceed the maximum length of detention on the ground that a person has no identity documents — Obstacles to implementation of a removal decision — Reasonable prospect of removal — Refusal of the Embassy of the country of origin of the person concerned to issue the document necessary for the return journey — Whether the Member State concerned is under an obligation to issue a temporary document relating to the status of the person concerned