

### Operative part of the judgment

1. Article 7(f) 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 must be interpreted as precluding national rules which, in the absence of the data subject's consent, and in order to allow such processing of that data subject's personal data as is necessary to pursue a legitimate interest of the data controller or of the third party or parties to whom those data are disclosed, require not only that the fundamental rights and freedoms of the data subject be respected, but also that the data should appear in public sources, thereby excluding, in a categorical and generalised way, any processing of data not appearing in such sources.

2. Article 7(f) of Directive 95/46 has direct effect.

(<sup>1</sup>) OJ C 346, 18.12.2010.

### Judgment of the Court (Third Chamber) of 10 November 2011 (reference for a preliminary ruling from the Højesteret, Denmark) — *Partrederiet Sea Fighter v Skatteministeriet*

(Case C-505/10) (<sup>1</sup>)

*(Directive 92/81/EEC — Excise duties on mineral oils — Exemption — Concept of 'navigation' — Fuel used for an excavator affixed to a vessel and operating independently of the vessel's engine)*

(2012/C 25/31)

Language of the case: Danish

#### Referring court

Højesteret

#### Parties to the main proceedings

*Applicant:* Partrederiet Sea Fighter

*Defendant:* Skatteministeriet

#### Re:

Reference for a preliminary ruling — Højesteret — Interpretation of Art. 8(1)(c) of Council Directive 92/81/EEC of 19 October 1992 on the harmonisation of the structures of excise duties on mineral oils (OJ 1992 L 316, p. 12) — Exemption for mineral oils used as fuel for the purposes of navigation — Concept of 'for the purposes of navigation' — Mineral oils used as fuel for an excavator which is affixed to a vessel but having its own separate motor and fuel tank and thus operating independently of the vessel's propulsion motor.

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Article 8(1)(c) of Council Directive 92/81/EEC of 19 October 1992 on the harmonisation of the structures of excise duties on mineral oils,

as amended by Council Directive 94/74/EC of 22 December 1994, must be interpreted as meaning that mineral oils supplied for use in an excavator which is affixed to a vessel but which, because it has its own separate motor and fuel tank, operates independently of the vessel's propulsion engine, are not exempt from excise duties.

(<sup>1</sup>) OJ C 13, 15.1.2011.

### Judgment of the Court (Seventh Chamber) of 10 November 2011 — *LG Electronics, Inc v Office for Harmonisation in the Internal Market (Trade Marks and Designs)*

(Case C-88/11 P) (<sup>1</sup>)

*(Appeal — Community trade mark — Word sign 'KOMPRESSOR PLUS' — Refusal to register — Regulation (EC) No 40/94 — Article 7(1)(c) — Descriptive character — Consideration of new evidence by the General Court — Distortion of the facts and evidence)*

(2012/C 25/32)

Language of the case: French

#### Parties

*Appellant:* LG Electronics, Inc. (represented by: J. Blanchard, avocat)

*Other party to the proceedings:* Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: A. Folliard-Monguiral, Agent)

#### Re:

Appeal against the judgment of the General Court (Second Chamber) of 16 December 2010 in Case T-497/09 *LG Electronics v OHIM* dismissing the appellant's action against the decision of the First Board of Appeal of OHIM of 23 September 2009 (Case R 397/2009-1) concerning an application for registration of the word sign KOMPRESSOR PLUS as a Community trade mark — Descriptive nature of the mark — Article 7(1)(c) of Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark (OJ 2009 L 78, p. 1) — Consideration of new facts by the General Court — Distortion of the evidence

#### Operative part of the judgment

*The Court:*

1. Dismisses the appeal;
2. Orders LG Electronics Inc. to pay the costs.

(<sup>1</sup>) OJ C 120, 16.4.2011.