Helsinki Information Law Moot Court problem 2018

In 2014, Tamsin McIvor was elected as an MEP for the EU member state of Newtonland. Her campaign had focused on the importance of including people from all social backgrounds in politics and she had given several speeches talking about the fact that neither she nor any of her family had any savings, and pointing to the fact that, at the time of the campaign, both she and her brother, James, were receiving government benefits. Since her election, Tamsin has stopped receiving benefits, although James still continues to do so.

In 2016, a European newspaper article was released which claimed that some MEPs from Newtonland were suspected of misusing their travel allowances to fly their families to and from Brussels. A week later, William Robson, a resident of Newtonland, boarded a plane to Brussels, where he saw both McIvor and her brother James sitting in business class. He quickly came to believe that McIvor had been using her travel expenses to pay for James' flight and therefore made an information access request under Regulation 1049/2001 for any documents relating to McIvor's travel expenses for the last 2 years, including information about any plane tickets and hotel rooms that had been paid for by public funds. The European Parliament refused to disclose the documents, arguing that the records contained personal information (including, but not limited to, McIvor's travel dates, home address, and hotel preferences). The Parliament justified this on Regulation 1049/2001, art. 4(1)(b) and Regulation 45/2001, art. 8, which, they claimed, meant that they must refuse to disclose any documents which would undermine the protection of privacy and the integrity of the individual, unless the applicant had shown that the transfer was necessary.

Robson brought a case before the General Court, asking that the Parliament be forced to hand over the relevant documents. The General Court rejected the application, ruling that:

1. Regulations 45/2001, art. 8 and 1049/2001, art. 4(1)(b) did not differentiate between personal data generated as part of the data subject's private life and that generated as part of the data subject's personal life. The information contained in the travel expenses therefore qualified as personal data and deserved the same protection as information generated as part of McIvor's private life; and

2. Robson had not shown that the disclosure of the travel expenses was necessary. Although Robson had stated in his application that he needed the information in order to "ensure that the public could supervise the spending of public money was done legally and fairly", this was stated too broadly to establish a need to disclose the personal information.

Robson appealed on both grounds to the Court of Justice, claiming that (a) the General Court had been wrong in law; and (b) insofar as the Court's conclusions were correct, the Regulations must be contrary to the Treaty on the Functioning of the European Union (TFEU), art. 15, the Charter of Fundamental Rights, art. 42 and recent case law by the ECHR and were therefore invalid. The Parliament rejected both of these grounds, but accepted that there was no issue of admissibility and refused to challenge the appeal on procedural grounds.

The Court of Justice agreed to hear the appeal.

Mooters are instructed to prepare statements before the Court of Justice focusing on the substantive law at dispute. Both parties are reminded that the case will be decided specifically based on Regulations 45/2001 and 1049/2001 themselves, and not their proposed reforms.