

the opposite is, in fact, in truth the case. The Commissioner has rather demonstrated scrupulous steadfastness to the letter of the 1995 Directive and the 2000 Decision.

83. Tenth, the applicant's objection is, in reality, to the terms of the Safe Harbour Regime itself rather than to the manner in which the Commissioner has actually applied the Safe Harbour Regime, although neither the validity of the 1995 Directive nor the validity of the Commission's Safe Harbour decision have, as such, been challenged in these proceedings.

84. Eleventh, in these circumstances the critical issue which arises is whether the proper interpretation of the 1995 Directive and the 2000 Commission decision should be re-evaluated in the light of the subsequent entry into force of Article 8 of the Charter and whether, as a consequence, the Commissioner can look beyond or otherwise disregard this Community finding. It is for these reasons accordingly that I have decided to refer this question (and other linked questions) to the Court of Justice pursuant to Article 267 TFEU.