

Questions referred

1. Is the concept of 'construction of overhead electrical power lines with a voltage of 220 kV or more and a length of more than 15 km' in point 20 of Annex I to Directive 85/337, ⁽¹⁾ as amended by Directive 97/11, ⁽²⁾ to be interpreted as meaning that the only electricity installations it covers are overhead power lines which reach both those thresholds?
2. Is the concept of '... transmission of electrical energy by overhead cables' in section 3(b) of Annex II to Directive 85/337, as amended by Directive 97/11, to be interpreted as meaning that the only electrical energy transmission installations it covers are overhead power lines?

If not:

3. Is the concept of '... transmission of electrical energy by overhead cables' in section 3(b) of Annex II to Directive 85/337 to be interpreted as meaning that it covers transformer substations?
4. Is the concept of '... transmission of electrical energy by overhead cables' in section 3(b) of Annex II to Directive 85/337 to be interpreted as meaning that it covers transformer substations, although the construction or extension thereof is carried out by means of a project which does not include the construction of an overhead power line?

⁽¹⁾ Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment (OJ 1985 L 175, p. 40).

⁽²⁾ Council Directive 97/11/EC of 3 March 1997 amending Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment (OJ 1997 L 73, p. 5).

Request for a preliminary ruling from the Augstākās tiesas Senāts (Republic of Latvia) lodged on 3 June 2013 — AS flyLAL Lithuanian Airlines, in liquidation v VAS Starptautiskā lidosta Rīga, AS Air Baltic Corporation

(Case C-302/13)

(2013/C 226/10)

Language of the case: Latvian

Referring court

Augstākās tiesas Senāts

Parties to the main proceedings

Applicant: AS flyLAL Lithuanian Airlines, in liquidation

Defendants: VAS Starptautiskā lidosta Rīga, AS Air Baltic Corporation

Questions referred

1. Is it appropriate to regard as a civil or commercial matter, within the meaning of [Regulation (EC) No 44/2001] ⁽¹⁾ ('the Regulation'), a case in which the applicant seeks compensation for damage and a declaration of the unlawfulness of the defendants' conduct consisting in an unlawful agreement and abuse of a dominant position, and which is based on the application of legislative acts of general scope of another Member State, bearing in mind that unlawful agreements are void from the moment they are concluded, and that, on the other hand, the adoption of a rule of law is an act of the State in the sphere of public law (*acta iure imperii*), to which the rules of public international law relating to the immunity of a State from the jurisdiction of other States apply?
2. In the event that the reply to Question 1 is in the affirmative (the case is a civil or commercial matter, within the meaning of the Regulation), are the compensation proceedings to be regarded as an action having as its object the validity of the decisions of the organs of companies, within the meaning of Article 22(2) of the Regulation, in which case the judgment need not be recognised, in accordance with Article 35(1) of the Regulation?
3. If the object of the action in the compensation proceedings falls within the scope of Article 22(2) of the Regulation (exclusive jurisdiction), is the court of the State in which recognition is sought required to verify the presence of the circumstances listed in Article 35(1) of the Regulation in relation to the recognition of a judgment adopting provisional protective measures?
4. May the public-policy clause contained in Article 34(1) of the Regulation be interpreted as meaning that recognition of a judgment adopting provisional protective measures is contrary to the public policy of a Member State if, first, the principal ground for the adoption of the provisional protective measures is the considerable size of the amount requested without a well-founded and substantiated calculation having been made and, second, if the recognition and enforcement of that judgment may cause the defendants damage for which the applicant, a company which is in liquidation, will not be able to compensate in the event that the claim for compensation is dismissed, which might affect the economic interests of the State in which recognition is sought, and thereby jeopardise the security of the State, in view of the fact that the Republic of Latvia holds 100 % of the shares in Lidosta Rīga and 52.6 % of the shares in AS Air Baltic Corporation?

⁽¹⁾ Council regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2001 L 21, p. 1).