

## V

(Announcements)

## COURT PROCEEDINGS

## COURT OF JUSTICE

**Request for a preliminary ruling from the Consiglio di Stato (Italy) lodged on 20 November 2013 — Presidenza del Consiglio dei Ministri and Others v Rina Services SpA and Others**

(Case C-593/13)

(2014/C 61/02)

*Language of the case: Italian***Referring court**

Consiglio di Stato

**Parties to the main proceedings***Appellants:* Presidenza del Consiglio dei Ministri and Others*Respondents:* Rina Services SpA and Others**Questions referred**

1. Do the TFEU principles of freedom of establishment (Article 49 TFEU) and freedom to provide services (Article 56 TFEU) and the principles laid down in Directive 2006/123/EC <sup>(1)</sup> ... preclude the adoption and application of national legislation under which SOAs constituted as limited companies 'must have their seat in Italian territory'?
2. Must the derogation provided for in Article 51 TFEU be interpreted as covering an activity such as the certification carried out by private-law bodies which, on the one hand, are required to be formed as limited companies and operate in a competitive market and, on the other hand, are connected with the exercise of official authority and, for that reason, are subject to authorisation and rigorous controls by the Supervisory Authorities?

**Appeal brought on 21 November 2013 by European Commission against the judgment of the General Court (Fourth Chamber) delivered on 6 September 2013 in Case T-465/11: Globula v European Commission**

(Case C-596/13 P)

(2014/C 61/03)

*Language of the case: English***Parties***Appellant:* European Commission (represented by: K. Herrmann, L. Armati, Agents)*Other parties to the proceedings:* Globula a.s., Czech Republic**Form of order sought**

The appellant claims that the Court should:

- set aside the judgment of the General Court (Fourth Chamber) of 6 September 2013, notified to the Commission on 11 September 2013, in Case T-465/11 Globula v European Commission;
- rule that the first plea at first instance is not well founded and refer the case back to the General Court for consideration of the second and third pleas at first instance; and
- reserve the costs of the proceedings at first instance and on.

**Pleas in law and main arguments**

According to the Commission the contested judgment should be set aside on the following grounds:

<sup>(1)</sup> Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (OJ 2006 L 376, p. 36).

First, violation of Articles 288 and 297(1) TFEU, by finding that the rules of the Second Gas Directive<sup>(1)</sup> apply to the case at hand; this first set of arguments advanced by the Commission will deal with the question whether the General Court was correct in holding (implicitly) that the Commission applied the Third Gas Directive<sup>(2)</sup> retroactively.

Second, the General Court erred in its legal characterisation of the facts and failed to properly apply the legal standard that it itself had announced: assuming that the General Court was correct in holding that application of the substantive rules of the Third Gas Directive would have been retroactive (*quod non*), the question whether the rules contained in Article 36 of the Third Gas Directive constitute an indivisible whole from the point of view of the time at which they take effect will be addressed in order to assess whether the General Court was also correct to hold that retroactive application of the procedural rules contained in that Directive was similarly prohibited.

In Commission's view, the assessment of the notified exemption decision in question on the basis of the procedural and substantive rules laid down in the Third Gas Directive did not entail a retroactive application of that act but is consistent with the principle of immediate application under which a provision of Union law applies from the time it enters into force to the future effects of a situation which arose under the old rule.

<sup>(1)</sup> Directive 2003/55/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in natural gas and repealing Directive 98/30/EC. OJ L 176, p. 57

<sup>(2)</sup> Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC. OJ L 211, p. 94

**Request for a preliminary ruling from the Corte Suprema di Cassazione (Italy) lodged on 25 November 2013 — Ministero dell'Economia e delle Finanze and Others v Francesco Cimmino and Others**

(Case C-607/13)

(2014/C 61/04)

*Language of the case: Italian*

**Referring court**

Corte Suprema di Cassazione

**Parties to the main proceedings**

*Appellants:* Ministero dell'Economia e delle Finanze and Others

*Respondents:* Francesco Cimmino and Others

**Questions referred**

1. On a proper construction of Article 11 of Regulation (EC) No 2362/98,<sup>(1)</sup> under which it is the responsibility of the Member States to check that operators are commercially active for their own account as importers into the Community and as independent economic units in terms of management, staffing and operations, is all import activity carried out on behalf of a traditional operator by persons who only formally satisfy the requirements laid down by that regulation in respect of 'new operators' to be excluded from the customs benefits normally granted to new operators?
2. Does Regulation (EC) No 2362/98 permit a traditional operator to sell bananas which are outside the European Union to a newcomer with which it has reached an agreement under which the bananas are to be imported into the European Union at a preferential rate of duty and are to be resold to that traditional operator at a price agreed upon prior to the whole transaction, without the newcomer bearing any actual business risk or making any arrangements regarding the resources necessary for carrying out that transaction?
3. Does the agreement referred to in Question 2 constitute an infringement of the prohibition, laid down in Article 21(2) of Regulation (EC) No 2362/98, on the transfer of rights from new operators to traditional operators, with the result that the transfer carried out remains ineffective and the duty is payable in full and not at a preferential rate, in accordance with Article 4(3) of Regulation No 2988/95?<sup>(2)</sup>

<sup>(1)</sup> Commission Regulation (EC) No 2362/98 of 28 October 1998 laying down detailed rules for the implementation of Council Regulation (EEC) No 404/93 regarding imports of bananas into the Community (OJ 1998 L 293, p. 32).

<sup>(2)</sup> Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ 1995 L 312, p. 1).

**Appeal brought on 27 November 2013 by British Telecommunications plc against the judgment of the General Court (Eighth Chamber) delivered on 16 September 2013 in Case T-226/09: British Telecommunications plc v European Commission**

(Case C-620/13 P)

(2014/C 61/05)

*Language of the case: English*

**Parties**

*Appellant:* British Telecommunications plc (represented by: J. Holmes, Barrister, H. Legge QC)