

Parties to the main proceedings

Appellant: Oftalma Hospital Srl

Respondent: CIOV -Commissione Istituti Ospitalieri Valdesi, Regione Piemonte

Questions referred

1. On a proper construction of Article 9 of Council Directive 92/50/EEC of 18 June 1992, ⁽¹⁾ which provides that contracts which have as their object services listed in Annex I B are to be awarded in accordance with Article 14 and Article 16, do such contracts in any case remain subject to the principles of freedom of establishment and freedom to provide services, equal treatment and the prohibition of discrimination on grounds of nationality, transparency and non-discrimination, pursuant to Article 43[EC], Article 49[EC] and Article 86[EC]?
2. If the first question should be answered in the affirmative, must Article 27 of Directive 92/50/EEC, which provides that where a contract is awarded by negotiated procedure the number of candidates admitted to negotiate may not be less than three, provided that there is a sufficient number of suitable candidates, be interpreted as applying likewise to contracts having as their object services listed in Annex I B of the directive?
3. Does Article 27 of Directive 92/50/EEC, which provides that where a contract is awarded by negotiated procedure the number of candidates admitted to negotiate may not be less than three, provided that there is a sufficient number of suitable candidates, preclude the application of a national law that, for public contracts signed before Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 ⁽²⁾ relating to services listed in Annex I B of Directive 92/50/EEC was adopted, does not guarantee the opening up of public procurement to competition if the negotiated procedure is used?

⁽¹⁾ Council Directive 92/50/EEC of 18 June 1992 relating to the coordination of procedures for the award of public service contracts (OJ 1992 L 209, p. 1).

⁽²⁾ Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts (OJ 2004 L 134, p. 114).

Request for a preliminary ruling from the Bundesarbeitsgericht (Germany) lodged on 9 February 2017 — IR v JQ

(Case C-68/17)

(2017/C 144/34)

Language of the case: German

Referring court

Bundesarbeitsgericht

Parties to the main proceedings

Appellant: IR

Respondent: JQ

Questions referred

1. Is the second subparagraph of Article 4(2) of Council Directive 2000/78/EC ⁽¹⁾ of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (Directive 2000/78/EC) to be interpreted as meaning that the church can determine with binding effect that an organisation such as the defendant in the present proceedings, where employees in managerial positions are required to act in good faith and with loyalty, shall differentiate between employees who belong to the church and those who belong to another church or to none at all?

2. If the first question is answered in the negative:

- a) Must the provision of national law, in this case Paragraph 9(2) of the Allgemeines Gleichbehandlungsgesetz (General Law on equal treatment), according to which unequal treatment of this kind on the basis of the religious affiliation of employees is justified in accordance with the church's self-concept, be disapplied in these proceedings?
- b) What requirements apply, in accordance with the second subparagraph of Article 4(2) of Directive 2000/78/EC, in respect of a requirement for employees of a church or one of the other organisations mentioned to act in good faith and with loyalty to the organisation's ethos?

⁽¹⁾ Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, OJ 2000 L 303, p. 16.

Request for a preliminary ruling from the Curtea de Apel București (Romania) lodged on 8 February 2017 — Gamesa Wind România S.R.L. v Agenția Națională de Administrare Fiscală — Direcția Generală de Soluționare a Contestațiilor, Agenția Națională de Administrare Fiscală — Direcția Generală de Administrare a Marilor Contribuabili

(Case C-69/17)

(2017/C 144/35)

Language of the case: Romanian

Referring court

Curtea de Apel București

Parties to the main proceedings

Applicant: Gamesa Wind România S.R.L.

Defendants: Agenția Națională de Administrare Fiscală — Direcția Generală de Soluționare a Contestațiilor, Agenția Națională de Administrare Fiscală — Direcția Generală de Administrare a Marilor Contribuabili

Questions referred

1. Does Council VAT Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ⁽¹⁾ (in particular, Articles 213, 214 and 273) preclude, in circumstances such as those of the main proceedings, national legislation or a tax practice under which a taxpayer does not have the right to deduct VAT claimed in several returns after the reactivation of the taxpayer's VAT identification number, on the basis that the VAT in question relates to purchases made during a period in which the taxpayer's VAT identification number was inoperative?
2. Does Council VAT Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (in particular, Articles 213, 214 and 273) preclude, in circumstances such as those of the main proceedings, national legislation or a tax practice under which a taxpayer does not have the right to deduct VAT claimed in several returns after the reactivation of the taxpayer's VAT identification number, on the basis that, although the VAT in question relates to invoices issued after the reactivation of the taxpayer's VAT identification number, it concerns purchases made during a period in which the VAT identification number was inoperative?

⁽¹⁾ OJ 2006 L 347, p. 1.