

Operative part of the judgment

1. Article 55 of 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 must be interpreted as requiring the inclusion in national legislation of a provision such as Article 42(3) of Slovak Law No 25/2006 on public procurement, in the version applicable in the main proceedings, which, in essence, provides that if a tenderer offers an abnormally low price, the contracting authority must ask it in writing to clarify its price proposal. It is for the national court to ascertain, having regard to all the documents in the file placed before it, whether the request for clarification enabled the tenderer concerned to provide a sufficient explanation of the composition of its tender;
2. Article 55 of Directive 2004/18 precludes a contracting authority from taking the view that it is not required to ask a tenderer to clarify an abnormally low price;
3. Article 2 of Directive 2004/18 does not preclude a provision of national law, such as Article 42(2) of the abovementioned Law No 25/2006, according to which, in essence, the contracting authority may ask tenderers in writing to clarify their tenders without, however, requesting or accepting any amendment to the tenders. In the exercise of the discretion thus enjoyed by the contracting authority, that authority must treat the various tenderers equally and fairly, in such a way that a request for clarification cannot appear unduly to have favoured or disadvantaged the tenderer or tenderers to which the request was addressed, once the procedure for selection of tenders has been completed and in the light of its outcome.

⁽¹⁾ OJ C 72, 5.3.2011.

Judgment of the Court (Sixth Chamber) of 29 March 2012 — European Commission v Kingdom of Sweden

(Case C-607/10) ⁽¹⁾

(Failure of a Member State to fulfil its obligations — Environment — Directive 2008/1/EC — Integrated pollution prevention and control — Conditions for the authorisation of existing installations — Obligation to ensure the operation of such installations in accordance with the requirements of the directive)

(2012/C 151/14)

Language of the case: Swedish

Parties

Applicant: European Commission (represented by: A. Alcover San Pedro and K. Simonsson, Agents)

Defendant: Kingdom of Sweden (represented by: A. Falk, Agent)

Re:

Failure of a Member State to fulfil obligations — Infringement of Article 5(1) of Directive 2008/1/EC of the European Parliament and of the Council of 15 January 2008 concerning integrated pollution prevention and control (OJ 2008 L 24, p. 8) — Conditions for the authorisation of existing installations — Obligation to ensure that those installations are operated in accordance with the requirements laid down in the directive

Operative part of the judgment

The Court:

1. Declares that, by failing to take the necessary measures to ensure that the competent national authorities see to it, by means of permits issued in accordance with Articles 6 and 8 of Directive 2008/1/EC of the European Parliament and of the Council of 15 January 2008 concerning integrated pollution prevention and control (Codified version) or, as appropriate, by reconsidering and, where necessary, by updating the conditions, that all existing installations operate in accordance with the requirements of Articles 3, 7, 9, 10 and 13, Article 14(a) and (b) and Article 15(2) of that directive, the Kingdom of Sweden has failed to fulfil its obligations under Article 5(1) of that directive;
2. Orders the Kingdom of Sweden to pay the costs.

⁽¹⁾ OJ C 89, 19.3.2011.

Judgment of the Court (Fourth Chamber) of 29 March 2012 (reference for a preliminary ruling from the Verwaltungsgericht Mainz — Germany) — Interseroh Scrap and Metals Trading GmbH v Sonderabfall-Management-Gesellschaft Rheinland-Pfalz mbH (SAM)

(Case C-1/11) ⁽¹⁾

(Environment — Regulation (EC) No 1013/2006 — Article 18(1) and (4) — Shipments of certain waste — Article 3(2) — Mandatory information — Identity of waste producers — Information not provided by the intermediary dealer — Protection of business secrets)

(2012/C 151/15)

Language of the case: German

Referring court

Verwaltungsgericht Mainz

Parties to the main proceedings

Applicant: Interseroh Scrap and Metals Trading GmbH

Defendant: Sonderabfall-Management-Gesellschaft Rheinland-Pfalz mbH (SAM)

Re:

Reference for a preliminary ruling — Verwaltungsgericht Mainz — Interpretation of Article 18(1) and (4) of Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste (OJ 2006 L 190, p. 1) — Document appearing in Annex VII to that regulation and containing details accompanying the transportation of certain waste — Right of an intermediary not to disclose in that document the identity of the waste producer in order to protect its customers with regard to the buyer