

Operative part of the judgment

1. Article 18(4) of Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste, as amended by Commission Regulation (EC) No 308/2009 of 15 April 2009, must be interpreted as not permitting an intermediary dealer arranging a shipment of waste not to disclose the name of the waste producer to the consignee of the shipment, as provided for in Article 18(1) of Regulation No 1013/2006 in conjunction with Annex VII to that regulation, even though such non-disclosure might be necessary in order to protect the business secrets of that intermediary dealer;
2. Article 18(1) of Regulation No 1013/2006, as amended by Regulation No 308/2009, must be interpreted as requiring an intermediary dealer, in the context of a shipment of waste covered by that provision, to complete Field 6 of the document contained in Annex VII to Regulation No 1013/2006, as amended by Regulation No 308/2009, and transmit it to the consignee, without any possibility of the scope of that requirement being restricted by a right to protection of business secrets.

⁽¹⁾ OJ C 95, 26.3.2011.

Order of the Court (Eighth Chamber) of 16 February 2012 (references for a preliminary ruling from the Tribunale Amministrativo Regionale del Lazio — Italy) — Emanuele Ferazzoli and Others v Ministero dell'Interno

(Joined Cases C-164/10 to C-176/10) ⁽¹⁾

(Article 104(3), first subparagraph, of the Rules of Procedure — Freedom of establishment — Freedom to provide services — Betting and gaming — Collection of bets on sporting events — Licensing requirement — Consequences of an infringement of European Union law in the awarding of licences — Award of 16 300 additional licences — Principle of equal treatment and the obligation of transparency — Principle of legal certainty — Protection of holders of earlier licences — National legislation — Mandatory minimum distances between betting outlets — Whether permissible — Cross-border activities analogous to those engaged in under the licence — Prohibition under national legislation — Whether permissible)

(2012/C 151/16)

Language of the case: Italian

Referring court

Tribunale Amministrativo Regionale del Lazio

Parties to the main proceedings

Applicants: Emanuele Ferazzoli (Case C-164/10), Cosima Barberio (Case C-165/10), Patrizia Banchetti (Case C-166/10), Andrea Palomba (Case C-167/10), Michele Fanelli (Case C-168/10), Sandra Castronovo (Case C-169/10), Mirko De

Filippo (Case C-170/10), Andrea Sacripanti (Case C-171/10), Emiliano Orru' (Case C-172/10), Fabrizio Cariulo (Case C-173/10), Paola Tonachella (Case C-174/10), Pietro Calogero (Case C-175/10), Danilo Spina (Case C-176/10)

Defendant: Ministero dell'Interno

Re:

Reference for a preliminary ruling — Tribunale Amministrativo Regionale del Lazio — Free movement of persons — Freedom to provide services — Activity of collecting bets — Domestic legislation reserving the right to engage in the activity of collecting bets to national operators who have obtained a licence — Restrictions on opening new betting outlets for the holders of new licences — Licences withdrawn where there is cross-border organisation of games similar to those considered to be 'public'— Whether compatible with Articles 43 EC and 49 EC

Operative part of the order

1. Articles 43 EC and 49 EC and the principles of equal treatment and effectiveness must be interpreted as precluding a Member State which, in breach of European Union law, has excluded a category of operators from the award of licences to engage in a particular economic activity and which seeks to remedy that breach by putting out to tender a significant number of new licences, from protecting the market positions acquired by the existing operators, by providing inter alia that a minimum distance must be observed between the establishments of new licence holders and those of existing operators.
2. Articles 43 EC and 49 EC must be interpreted as precluding the imposition of penalties for engaging in the organised activity of collecting bets without a licence or police authorisation on persons who are linked to an operator which was excluded, in breach of European Union law, from an earlier tendering procedure, even following the new tendering procedure intended to remedy that breach of European Union law, in so far as that tendering procedure and the subsequent award of new licences have not in fact remedied the exclusion of that operator from the earlier tendering procedure.
3. It follows from Articles 43 EC and 49 EC, the principle of equal treatment, the obligation of transparency and the principle of legal certainty that the conditions and detailed rules of a tendering procedure such as that at issue in the cases before the referring court and, in particular, the provisions concerning the withdrawal of licences granted under that tendering procedure, such as those laid down in Article 23(2)(a) and (3) of the model contract between the Independent Authority for the Administration of State Monopolies and the successful tenderer for the licence for betting on events other than horse races, must be drawn up in a clear, precise and unequivocal manner, a matter which it is for the referring court to verify.

⁽¹⁾ OJ C 161, 19.6.2010.