

**Re:**

Reference for a preliminary ruling — Tribunale Amministrativo Regionale per la Sicilia — Interpretation of Article 6 EU, Article 3 of the First Additional Protocol and Article 2 of the Fourth Additional Protocol to the European Convention on Human Rights and Article 25 of the International Covenant on Civil and Political Rights — Interpretation of Articles 17 EC and 18 EC — Compatibility of regional legislation restricting the right of an Italian national to be nominated for election on the basis of a requirement of residence in the region

**Operative part of the order**

1. Articles 17 EC and 18 EC do not preclude national legislation which, in a situation such as that at issue in the main proceedings, includes among the requirements for eligibility for election to a regional assembly, the obligation to be residing in the region concerned at the time when nominations are put forward.
2. The Court of Justice of the European Communities clearly does not have jurisdiction to reply to the first question referred by the Tribunale Amministrativo Regionale per la Sicilia.

(<sup>1</sup>) OJ C 32, 7.2.2009.

**Appeal brought on 10 February 2009 by the Kingdom of Belgium against the judgment of the Court of First Instance (Second Chamber) delivered on 24 April 2009 (fax: 22 April 2009) in Case T-388/03 Deutsche Post AG and DHL International v Commission of the European Communities**

(Case C-148/09 P)

(2009/C 167/04)

Language of the case: German

**Parties**

*Appellant:* Kingdom of Belgium (represented by: C. Pochet and T. Materne, acting as Agents)

*Other parties to the proceedings:* Deutsche Post AG, DHL International, Commission of the European Communities

**Form of order sought**

- Set aside the judgment of the Court of First Instance of the European Communities of 10 February 2009 in Case T-388/03 *Deutsche Post AG and DHL International v Commission of the European Communities*
- Order Deutsche Post and DHL International to pay the costs.

**Pleas in law and main arguments**

The appellant puts forward three pleas in law in support of its appeal against the judgment of the Court of First Instance of 10 February 2009, by which a Commission Decision of 23 July 2003 raising no objections, following a preliminary examination procedure provided for in Article 88(3) EC, to a proposal announced on 3 December 2002 in increase La

Poste's capital and to certain other measures adopted by the Belgium authorities in favour of La Poste was annulled. Those please seeking to have the judgment under appeal set aside.

By the first plea in law, the appellant claims that the judgment under appeal misinterpreted the procedural rules concerning the examination of State aids, in so far as it classified certain elements of the preliminary examination procedure and certain aspects of the Commission Decision of 23 July 2003 as objective and consistent evidence of 'serious difficulties', which should have necessitated the initiation of the formal investigation procedure under article 88(2) EC.

By the second plea in law, the appellant states that the judgment under appeal already partially reached a decision on the substantive correctness of the examination, undertaken in the Commission Decision of 23 July 2003, of the existence of State aid and its compatibility with the common market, in so far as it took the fourth and seventh pleas into consideration and also upheld them, although the fourth and seventh pleas should have been declared inadmissible as the applicant, even according to the judgment under appeal, had no corresponding standing to bring proceedings.

By the third plea in law, the appellant complains that he judgment under appeal breached the principle of legal certainty, in so far as it objects that the Commission, in its examination included in the decision of 23 July 2003, did not take account of the fourth criterion of the judgment of the Court of Justice of 24 July 2003 in the *Altmark* Case, which is the criterion of 'benchmarking' with the costs of a typical, well-run and appropriately-equipped undertaking, although that judgment was made only after the examination of the present case (and one day after the Commission had decided to raise no objections to the proposed increase to La Poste's capital), and the criterion in question was not, before that time, reflected in the case-law of the Court of Justice or the Court of First Instance or in the Commission's decision-making practice.

**Reference for a preliminary ruling from the Juzgado de lo Social Único de Algeciras (Spain) lodged on 28 April 2009 — Federación de Servicios Públicos de la UGT (UGT-FSP) v Ayuntamiento de la Línea de la Concepción, María del Rosario Vecino Uribe and Others, and the Ministerio Fiscal**

(Case C-151/09)

(2009/C 167/05)

Language of the case: Spanish

**Referring court**

Juzgado de lo Social Único de Algeciras

**Parties to the main proceedings**

*Applicant:* Federación de Servicios Públicos de la UGT (UGT-FSP)

*Defendants:* Ayuntamiento de la Línea de la Concepción, María del Rosario Vecino Uribe and Others,

the Ministerio Fiscal