

Parties to the main proceedings

Applicant: Verband Sozialer Wettbewerb eV

Defendant: Innova Vital GmbH

Operative part of the judgment

Article 1(2) of Regulation (EC) No 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods, as amended by Commission Regulation (EU) No 1047/2012 of 8 November 2012, must be interpreted as meaning that nutrition or health claims made in a commercial communication on a food which is intended to be delivered as such to the final consumer, if that communication is addressed not to the final consumer, but exclusively to health professionals, falls within the scope of that regulation.

⁽¹⁾ OJ C 127, 20.4.2015.

Judgment of the Court (Fifth Chamber) of 7 July 2016 (request for a preliminary ruling from the Tribunal Central Administrativo Sul — Portugal) — Ambisig — Ambiente e Sistemas de Informação Geográfica SA v AICP — Associação de Industriais do Concelho de Pombal

(Case C-46/15) ⁽¹⁾

(Reference for a preliminary ruling — Public procurement — Directive 2004/18/EC — Article 48(2)(a) (ii), second indent — Technical abilities of economic operators — Direct effect — Means of evidence — Hierarchical relationship between the private purchaser's certification and the tenderer's unilateral declaration — Principle of proportionality — Prohibition on introducing substantive changes to the means of evidence provided for)

(2016/C 335/14)

Language of the case: Portuguese

Referring court

Tribunal Central Administrativo Sul

Parties to the main proceedings

Applicant: Ambisig — Ambiente e Sistemas de Informação Geográfica SA

Defendant: AICP — Associação de Industriais do Concelho de Pombal

Intervener: Índice — ICT & Management Lda

Operative part of the judgment

1. The second indent of Article 48(2)(a)(ii) 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 meaning that, even if not transposed into national law, it satisfies the conditions for conferring on individuals rights that they may assert against a contracting authority before national courts, provided that that authority is a public entity or has been given responsibility, pursuant to a measure adopted by the State, for providing a public-interest service under the control of the State and which has, for that purpose, special powers beyond those which result from the normal rules applicable in relations between individuals.

2. The second indent of Article 48(2)(a)(ii) of Directive 2004/18 must be interpreted as meaning that it does not preclude the application of rules laid down by a contracting authority, such as those at issue in the main proceedings, which do not allow an economic operator to provide evidence of his technical abilities by a unilateral declaration, unless he proves that it is impossible or very difficult to obtain a certification from the private purchaser.
3. The second indent of Article 48(2)(a)(ii) of Directive 2004/18 must be interpreted as meaning that it precludes the application of rules laid down by a contracting authority, such as those at issue in the main proceedings, which, on pain of exclusion of the tenderer's application, require the private purchaser's certification to contain authentication of the signature by a notary, lawyer or other competent entity.

⁽¹⁾ OJ C 146, 4.5.2015.

**Judgment of the Court (Second Chamber) of 7 July 2016 (request for a preliminary ruling from the
Sąd Najwyższy — Poland) — Emmanuel Lebek v Janusz Domino**

(Case C-70/15) ⁽¹⁾

(Judicial cooperation in civil matters — Regulation (EC) No 44/2001 — Article 34(2) — Defendant not entering an appearance — Recognition and enforcement of judgments — Grounds for refusing enforcement — Document instituting proceedings not served on the defendant in sufficient time — Concept of ‘proceedings to challenge a judgment’ — Application for relief — Regulation (EC) No 1393/2007 — Article 19(4) — Service of judicial and extrajudicial documents — Period within which an application for relief may be submitted)

(2016/C 335/15)

Language of the case: Polish

Referring court

Sąd Najwyższy

Parties to the main proceedings

Appellant: Emmanuel Lebek

Respondent: Janusz Domino

Operative part of the judgment

1. The concept of ‘proceedings to challenge a judgment’ referred to in Article 34(2) of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters must be interpreted as also including applications for relief when the period for bringing an ordinary challenge has expired.
2. The last subparagraph of Article 19(4) of Regulation (EC) No 1393/2007 of the European Parliament and of the Council of 13 November 2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents), and repealing Council Regulation (EC) No 1348/2000 must be interpreted as excluding the application of provisions of national law concerning the system of applying for relief where the period for filing such applications, as specified in the communication of a Member State to which that provision refers, has expired.

⁽¹⁾ OJ C 171, 26.5.2015.