



C/2024/4849

12.8.2024

**Request for a preliminary ruling from the Stockholms tingsrätt (Sweden) lodged on 7 June 2024 –
Sjöfartsverket v Stockholms Hamn Aktiebolag**

(Case C-401/24, Stockholms Hamn)

(C/2024/4849)

Language of the case: Swedish

Referring court

Stockholms tingsrätt

Parties to the main proceedings

Applicant: Sjöfartsverket

Defendant: Stockholms Hamn Aktiebolag

Questions referred

1. Should the criterion of favouring in Article 107(1) of the Treaty on the Functioning of the European Union be understood as meaning that annual compensation which is paid by a State authority to a municipal joint stock company from State resources under an agreement as compensation for the company's undertaking to provide free of charge a certain service, in this case lock operations, for which fees were charged until the conclusion of the agreement,
 - (a) is to be regarded in its entirety as constituting aid which distorts or threatens to distort competition by favouring the recipient?
 - (b) is to be regarded as constituting aid which distorts or threatens to distort competition by favouring the recipient to the extent that the compensation exceeds the recipient's previous annual revenue from fees for the service, taking into account changes in, for example, the consumer price index and traffic volume in lock operations?
 - (c) is to be regarded as constituting aid which distorts or threatens to distort competition by favouring the recipient to the extent that the compensation exceeds the recipient's annual costs for providing the service?
 - (d) is to be regarded as constituting aid which distorts or threatens to distort competition by favouring the recipient based on some other calculation model?
 - (e) is not to be regarded to any extent as constituting aid which distorts or threatens to distort competition by favouring the recipient?
2. Should an agreement on annual compensation paid by a State authority to a municipal joint stock company from State resources as compensation for the company's undertaking to provide free of charge a service outside the agriculture sector, in this case lock operations, where the agreement was concluded before Sweden's accession to the European Union and was not notified to the Commission, be considered to constitute existing aid which, in accordance with Article 1(b)(i) of Council Regulation (EU) 2015/1589 ⁽¹⁾ of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union, is to be regarded as lawful provided the Commission has not found the aid to be incompatible with the internal market?

⁽¹⁾ Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ 2015 L 248, p. 9).

3. If question 2 is answered in the affirmative, should such annual compensation nevertheless be considered to constitute new aid if, on several occasions after Sweden's accession to the European Union, the agreement was extended by five years at a time, in accordance with the original terms, in the absence of notice of termination and the annual compensation for each new five-year period was changed, partly in the light of the consumer price index and partly in the light of the extent of the service which was provided free of charge during the preceding agreement period, in this case traffic volume in lock operations?
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