



Judgment of the Court (First Chamber) of 17 October 2024 (request for a preliminary ruling from the Tribunale Amministrativo Regionale della Liguria – Italy) – FA.RO. di YK & C. Sas v Agenzia delle Dogane e dei Monopoli

(Case C-16/23, (1) FA.RO. di YK & C.)

(Reference for a preliminary ruling – Services in the internal market – Directive 2006/123/EC – Authorisation scheme – Article 10 – Conditions for the granting of authorisation – Sale of tobacco products – National legislation making the grant of authorisation to establish a point of sale for tobacco products subject to compliance with conditions – Conditions relating to distance and population – Protection of public health against smoking)

(C/2024/7135)

Language of the case: Italian

Referring court

Tribunale amministrativo regionale della Liguria

Parties to the main proceedings

Applicant: FA.RO. di YK & C. Sas

Defendant: Agenzia delle Dogane e dei Monopoli

Operative part of the judgment

Article 10(1) and (2) of Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market

must be interpreted as not precluding national legislation which makes the grant of authorisation for points of sale for tobacco products subject to compliance with conditions relating to the minimum geographical distance between suppliers and to population size, without the possibility of the competent public authority taking into account, in place of those conditions, periodic increases in the number of consumers, provided that those conditions:

- are objectively justified by an overriding reason relating to the public interest, such as the protection of public health against the risks generated by manufactured tobacco products;
- are likely to have a dissuasive effect on the demand for manufactured tobacco products;
- apply also to the installation of cigarette vending machines, and
- applied, where appropriate, with the criterion of the interest of the service, comply with the principle of proportionality and satisfy the requirements of clarity, non-ambiguity, objectivity, publicity, transparency and accessibility.

(1) OJ C 121, 3.4.2023.