

Judgment of the Court (Grand Chamber) of 10 July 2025 (request for a preliminary ruling from the Ustavno sodišče Republike Slovenije – Slovenia) – INTERZERO Trajnostne rešitve za svet brez odpadkov d.o.o. and Others, Surovina, družba za predelavo odpadkov d.o.o. and Others v Državni zbor Republike Slovenije

(Case C-254/23, ⁽¹⁾ INTERZERO and Others)

(Reference for a preliminary ruling – Freedom of establishment and freedom to provide services – Articles 49 and 56 TFEU – Protocol (No 26) on services of general interest, annexed to the EU and FEU Treaties – Services in the internal market – Directive 2006/123/EC – Scope – Monopolies and services of general economic interest – Requirements to be evaluated – Article 15 – Waste – Directive 2008/98/EC – Extended producer responsibility schemes – Articles 8 and 8a – Creation of a monopoly on the market for collective fulfilment of extended producer responsibility obligations – Non-profit-making single organisation – Article 106(2) TFEU – Concept of an ‘undertaking’ – Detailed rules for establishment and operation – Transitional arrangements – Obligation on producers subject to extended responsibility to comply with that scheme – Articles 16 and 17 of the Charter of Fundamental Rights of the European Union – Right to conduct a business and right to property – Principles of legal certainty and protection of legitimate expectations – Proportionality)

(C/2025/4718)

Language of the case: Slovenian

Referring court

Ustavno sodišče

Parties to the main proceedings

Applicants: INTERZERO Trajnostne rešitve za svet brez odpadkov d.o.o., Interzero Circular Solutions Europe GmbH and Others, Surovina, družba za predelavo odpadkov d.o.o., DINOS, družba za pripravo sekundarnih surovin d.o.o and Others

Defendant: Državni zbor Republike Slovenije

Operative part of the judgment

1. Article 106(2) TFEU

must be interpreted as meaning that a legal person that, first, has the exclusive right to exercise, in accordance with Articles 8 and 8a of Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives, as amended by Directive (EU) 2018/851 of the European Parliament and of the Council of 30 May 2018, an activity consisting of the fulfilment, for a given category of products and throughout the territory of a Member State, of extended producer responsibility obligations on behalf of the producers concerned, and that, second, is required to carry out that activity on a non-profit-making basis, must be regarded as an undertaking entrusted with the operation of a service of general economic interest, within the meaning of that Article 106(2), provided that that legal person has actually been entrusted with the discharge of public service obligations and that the nature, duration and scope of those obligations are clearly defined in national law.

2. Articles 8 and 8a of Directive 2008/98, as amended by Directive 2018/851, Article 15 of Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market, Articles 49, 56 and 106 TFEU, Articles 16 and 17 of the Charter of Fundamental Rights of the European Union and the principles of legal certainty and protection of legitimate expectations

⁽¹⁾ OJ C 252, 17.7.2023.

must be interpreted as meaning that, subject to compliance with the principle of proportionality, they do not preclude national legislation which:

- establishes a monopoly situation through the creation of an organisation entrusted with the collective fulfilment of extended producer responsibility obligations that has the exclusive right to carry out that activity for a given category of products, while providing for both the revocation by operation of law of the authorisations which enabled economic operators to carry on that activity up until that point and the termination by operation of law of all the contracts concluded by those operators in the exercise of the same activity, provided, however, first, that that legislation is accompanied by the establishment of a legislative framework capable of ensuring that the holder of that monopoly will in fact be able to pursue, in a consistent and systematic manner, the objectives of protection of the environment and public health which the Member State concerned has set itself by means of a supply that is quantitatively measured and qualitatively planned by reference to those objectives and subject to strict control by the public authorities, and, second, that it provides for adaptations to the application of the new rules to prevent any excessive burden being placed on the economic operators concerned, in particular a transitional period of sufficient duration to enable them to adapt to the changes or a system of reasonable compensation for the damage suffered by them;
- requires that organisation to carry on its activity on a non-profit-making basis;
- provides that producers subject to extended producer responsibility obligations that place on the market at least 51 % of the total quantity of products of the same category, to which that extended responsibility obligation applies, must set up such an organisation and hold shares in it;
- provides that shareholders in that organisation must be producers on the market concerned;
- prohibits those producers from carrying out the activity of waste collection and treatment and prohibits capital or family ties between, on the one hand, that organisation, the members of its management body and those producers and, on the other hand, the persons who collect and treat waste and persons who have voting rights in the governing body or supervisory body of that organisation;
- makes the collective fulfilment of extended producer responsibility obligations compulsory for the producers of products subject to that extended producer responsibility and requires them to contract with that same organisation, provided, however, that such obligations are accompanied by sufficient procedural safeguards, in particular with regard to possible conflicts of interest or competitive disadvantages, in order to prevent any excessive burden being placed on the producers concerned in the course of carrying out their economic activity as a result of arbitrary or unforeseeable effects on their contractual relationships.