

2. Orders the Italian Republic to pay the costs.

(¹) OJ C 256, 24.10.2009.

Judgment of the Court (Third Chamber) of 22 December 2010 (reference for a preliminary ruling from the Unabhängiger Verwaltungssenat Wien — Austria) — Yellow Cab Verkehrsbetriebs GmbH v Landeshauptmann von Wien

(Case C-338/09) (¹)

(Freedom to provide services — Freedom of establishment — Competition rules — Cabotage transport operations — National transportation of persons by bus service — Application to operate a service — Licence — Authorisation — Conditions — Requirement of a seat or permanent establishment in the national territory — Reduction of income compromising the profitability of a service already licensed)

(2011/C 63/12)

Language of the case: German

Referring court

Unabhängiger Verwaltungssenat Wien

Parties to the main proceedings

Applicant: Yellow Cab Verkehrsbetriebs GmbH

Defendant: Landeshauptmann von Wien

Re:

Reference for a preliminary ruling — Unabhängiger Verwaltungssenat Wien — Interpretation of Articles 49 et seq. EC and Article 81 et seq. EC — Legislation of a Member State subjecting the grant of a licence to operate a public transport service to the double condition that the applicant for that licence be established in that Member State and that the new service does not undermine the profitability of a similar existing transport service

Operative part of the judgment

1. Article 49 TFEU must be interpreted as opposing the legislation of a Member State, such as that at issue in the main proceedings, which, for the purposes of the grant of authorisation to operate a public urban bus service, where fixed stopping points are called at regularly in accordance with a timetable, requires applicant economic operators established in another Member State to hold a seat or another establishment in the territory of the host Member State even before being authorised to operate that service. By contrast, Article 49 TFEU must be interpreted as not precluding national legislation which provides for an establishment requirement where such a requirement does not apply until after that authorisation has been granted and before the applicant commences operation of that service.

2. Article 49 TFEU must be interpreted as opposing national legislation which provides for the refusal of the grant of authorisation to operate a tourist bus service as a result of the reduced profitability of a competing undertaking which has been authorised to operate a service which is partially or entirely identical to the one applied for, on the sole basis of the statements of that competing undertaking.

(¹) OJ C 282, 21.11.2009.

Judgment of the Court (First Chamber) of 22 December 2010 — European Commission v Republic of Malta

(Case C-351/09) (¹)

(Failure of a Member State to fulfil obligations — Environment — Directive 2000/60/EC — Articles 8 and 15 — Status of inland surface water — Establishment and making operational of monitoring programmes — Failure — Submission of summary reports on those monitoring programmes — Failure)

(2011/C 63/13)

Language of the case: English

Parties

Applicant: European Commission (represented by: S. Pardo Quintillán and K. Xuereb, acting as Agents)

Defendant: Republic of Malta (represented by: S. Camilleri, D. Mangion, P. Grech and Y. Rizzo, acting as Agents)

Re:

Failure of a Member State to fulfil obligations — Infringement of Articles 8 and 15 of Directive 2000/60/EC of the European Parliament and of the Council of 23 October establishing a framework for Community action in the field of water policy (OJ 2000 L 327, p. 1) — Obligation to establish and make operational programmes for the monitoring of the status of surface waters — Obligation to submit summary reports regarding the programmes for the monitoring of surface waters

Operative part of the judgment

The Court:

1. Declares that, in failing, firstly, to establish monitoring programmes on the status of inland surface water and make them operational in accordance with Article 8(1) and (2) of Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy, and, secondly, to submit summary reports on the monitoring programmes on the status of inland surface water in accordance with Article 15(2) of that directive, the Republic of Malta has failed to fulfil its obligations under Articles 8 and 15 of that directive;