

**Question referred**

Must the principle that the position of an individual public authority holding shares in a *società strumentale* [(a company set up to provide certain municipal services)] is immaterial also apply where one of the partner municipalities holds a single share in the *società strumentale* and the shareholders' agreements entered into by the partner public authorities are not such as to give the shareholding municipality any effective power of control over the company, with the result that the company shareholding may be regarded merely as formal cover for a contract for the provision of services?

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**Reference for a preliminary ruling from the Consiglio di Stato (Italy) lodged on 18 April 2011 — Econord SpA v Comune di Solbiate and Comune di Varese**

(Case C-183/11)

(2011/C 211/20)

*Language of the case: Italian*

**Referring court**

Consiglio di Stato

**Parties to the main proceedings**

*Applicant:* Econord SpA

*Defendants:* Comune di Solbiate and Comune di Varese

*Interested party:* Aspem SpA

**Question referred**

Must the principle that the position of an individual public authority holding shares in a *società strumentale* [(a company set up to provide certain municipal services)] is immaterial also apply where one of the partner municipalities holds a single share in the *società strumentale* and the shareholders' agreements entered into by the partner public authorities are not such as to give the shareholding municipality any effective power of control over the company, with the result that the company shareholding may be regarded merely as formal cover for a contract for the provision of services?

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**Reference for a preliminary ruling from the Tribunale di Treviso (Italy) lodged on 20 April 2011 — Criminal proceedings against Elena Vermisheva**

(Case C-187/11)

(2011/C 211/21)

*Language of the case: Italian*

**Referring court**

Tribunale di Treviso

**Defendant in the criminal proceedings**

Elena Vermisheva.

**Question referred**

In the light of the principles of sincere cooperation and of the effectiveness of directives, do Articles 15 and 16 of Directive 2008/115/EC <sup>(1)</sup> preclude the possibility that a third country national illegally staying in a Member State may be sentenced to a term of imprisonment of up to four years where he fails to comply with the first order issued by the Questore and a term of imprisonment of up to five years for failure to comply with subsequent orders (with the corresponding obligation for the police authorities to arrest those engaged in the commission of this offence) simply on account of his lack of cooperation in the deportation procedure, in particular his simple failure to comply with a removal order issued by the administrative authorities?

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<sup>(1)</sup> OJ 2008 L 348, p. 98.

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**Reference for a preliminary ruling from the Landesgericht für Zivilrechtssachen (Vienna) lodged on 20 April 2011 — Peter Hehenberger v Republic of Austria**

(Case C-188/11)

(2011/C 211/22)

*Language of the case: German*

**Referring court**

Landesgericht für Zivilrechtssachen (Vienna)

**Parties to the main proceedings**

*Applicant:* Peter Hehenberger

*Defendant:* Republic of Austria

**Question referred**

Does Council Regulation (EC) No 1257/1999 <sup>(1)</sup> in conjunction with Commission Regulation (EC) No 817/2004 <sup>(2)</sup> preclude the laying down of rules by the provider of support requiring repayment by the recipient, in the event that an on-the-spot check (area measurement) is prevented, of all support already given in the context of an agri-environmental measure during the commitment period, even if it has been awarded and disbursed for a number of years?

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<sup>(1)</sup> Council Regulation (EC) No 1257/1999 of 17 May 1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) and amending and repealing certain Regulations (OJ 1999 L 160, p. 80).

<sup>(2)</sup> Corrigendum to Commission Regulation (EC) No 817/2004 of 29 April 2004 laying down detailed rules for the application of Council Regulation (EC) No 1257/1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) (OJ 2004 L 153, p. 30) (OJ 2004 L 231, p. 24).