

Reference for a preliminary ruling from the Tribunale Amministrativo Regionale per il Lazio (Italy), lodged on 14 September 2012 — Anitrav v Roma Capitale

(Case C-420/12)

(2012/C 366/46)

Language of the case: Italian

Referring court

Tribunale Amministrativo Regionale per il Lazio

Parties to the main proceedings

Applicant: Associazione Nazionale Imprese Trasporto Viaggiatori (Anitrav)

Defendant: Roma Capitale

Question referred

Do Article 49 TFEU, Article 3 TEU, Articles 3 TFEU, 4 TFEU, 5 TFEU, 6 TFEU, 101 TFEU and 102 TFEU preclude the application of Articles 3(3), 8(3) and 11 of Law No 21 of 1992 [on the carriage of passengers by public non-scheduled car and coach services] in so far as the latter provisions respectively provide that '[t]he registered office of the carrier, and the garage, must be located, exclusively, within the territory of the municipality which issued the authorisation', that '[i]n order to obtain and maintain an authorisation for a car- and driver-hire service it is necessary to have the use, pursuant to a valid legal title, of a registered office, a garage or a vehicle rank located in the territory of the municipality which issued the authorisation' and that '[b]ookings for car- and driver-hire services shall take place at the garage. Each individual car- and driver-hire service must begin and end at the garage located in the municipality in which the authorisation was issued, returning to that garage, although the collection of the user and the user's arrival at his destination may take place also in other municipalities?'

Reference for a preliminary ruling from the Administrativen sad Sofia-grad (Bulgaria) lodged on 26 September 2012 — 'Slancheva sila' EOOD v Izpalnitelnen direktor na Darzhaven fond 'Zemedelie' — Razplashtatelna agentsia

(Case C-434/12)

(2012/C 366/47)

Language of the case: Bulgarian

Referring court

Administrativen sad Sofia-grad

Parties to the main proceedings

Applicant: 'Slancheva sila' EOOD

Defendant: Izpalnitelnen direktor na Darzhaven fond 'Zemedelie' — Razplashtatelna agentsia

Questions referred

1. How is the concept 'artificially created conditions' to be interpreted in the light of the provision contained in Article 4(8) of Regulation No 65/2011? ⁽¹⁾
2. Is Article 4(8) of Regulation No 65/2011 to be interpreted as being incompatible with Article 7(2) of the Bulgarian Regulation No 29 of 11 August 2008, according to which financial aid is not to be granted to applicants/beneficiaries who are found to be functionally dependent and/or who have artificially created the conditions required for obtaining aid, with a view to obtaining an advantage contrary to the objectives of the measure?
3. Is Article 4(8) of Regulation No 65/2011 to be interpreted as being incompatible with the case-law in the Republic of Bulgaria, according to which the conditions required for obtaining an advantage contrary to the objectives of the measure have been artificially created if there is a legal connection between the applicants?
4. Does the use by different applicants who are independent legal persons of independent neighbouring sites which were part of a single property before the application was submitted, and does the actual connection that is found to exist, for example applicants having the same agents, suppliers, executives, place of business and address, constitute 'artificially created conditions'?
5. Is it necessary to establish that there is deliberate coordination between the applicants and/or a third party with a view to obtaining an advantage for a specific applicant?
6. What constitutes an advantage within the meaning of Article 4(8) of Regulation No 65/2011, in particular, does it include drawing up several smaller investment proposals with a view to a specific applicant receiving funding for each of them at the maximum rate of EUR 200 000 even if they were submitted by various different applicants?
7. Is Article 4(8) of Regulation No 65/2011 to be interpreted as calling into question the case-law in the Republic of Bulgaria, according to which the provision in fact requires that the following three cumulative conditions be met: 1. that there be functional dependence and/or artificially created conditions for obtaining aid, 2. that this be intended to obtain an advantage, and 3. that it be contrary to the objectives of the measure?

⁽¹⁾ Commission Regulation (EU) No 65/2011 of 27 January 2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1698/2005, as regards the implementation of control procedures as well as cross-compliance in respect of rural development support measures (OJ 2011 L 25, p. 8).