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(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Judgment of the Court (Second Chamber) of 29 September 2016 (request for a preliminary ruling from the Nederlandstalige rechtbank van eerste aanleg te Brussel — Belgium) — Essent Belgium NV v Vlaams Gewest, Inter-Energa and Others

(Case C-492/14) ⁽¹⁾

(Reference for a preliminary ruling — Regional legislation requiring the distribution, through the systems located in the region concerned, of electricity produced from renewable energy sources to be free of charge — Different treatment depending on the origin of the green electricity — Articles 28 EC and 30 EC — Free movement of goods — Directive 2001/77/EC — Articles 3 and 4 — National support mechanisms for the production of green energy — Directive 2003/54/EC — Articles 3 and 20 — Directive 96/92/EC — Articles 3 and 16 — Internal market in electricity — Access to distribution systems on non-discriminatory tariff conditions — Public service obligations — Lack of proportionality)

(2017/C 046/02)

Language of the case: Dutch

Referring court

Nederlandstalige rechtbank van eerste aanleg te Brussel

Parties to the main proceedings

Applicant: Essent Belgium NV

Defendants: Vlaams Gewest, Inter-Energa, IVEG, Infrac West, Provinciale Brabantse Energiemaatschappij CVBA (PBE), Vlaamse Regulator van de Elektriciteits- en Gasmarkt (VREG)

Interveners: Intercommunale Maatschappij voor Energievoorziening Antwerpen (IMEA), Intercommunale Maatschappij voor Energievoorziening in West- en Oost-Vlaanderen (IMEWO), Intercommunale Vereniging voor Energielevering in Midden-Vlaanderen (Intergem), Intercommunale Vereniging voor de Energiedistributie in de Kempen en het Antwerpse (IVEKA), Iverlek, Gaselwest CVBA, Sibelgas CVBA

Operative part of the judgment

The provisions of Articles 28 EC and 30 EC, and of Article 3(2) and (8) and Article 20(1) of Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity and repealing Directive 96/92/EC, Article 3(2) and (3) and Article 16 of Directive 96/92/EC of the European Parliament and of the Council of 19 December 1996 concerning common rules for the internal market in electricity, and Articles 3 and 4 of Directive 2001/77/EC of the European Parliament and of the Council of 27 September 2001 on the promotion of electricity produced from renewable energy sources in the internal electricity market, read together, must be interpreted as precluding legislation such as the besluit van de Vlaamse regering tot wijziging van het besluit van de Vlaamse regering van 28 september 2001 (Decision of the Flemish Government amending the Decision of the Flemish Government of 28 September 2001) of 4 April 2003, and the besluit van de Vlaamse regering inzake de bevordering van elektriciteitsopwekking uit hernieuwbare energiebronnen (Decision of the Flemish Government promoting the production of electricity

from renewable energy sources) of 5 March 2004, which imposes a scheme for the free distribution of green electricity through the distribution systems in the region concerned, while limiting the benefit of that scheme, in the case of the first decision, solely to green electricity fed directly into those distribution systems by the generating installations and, in the case of the second decision, solely to green electricity fed directly by such installations into the distribution systems in the Member State to which that region belongs.

⁽¹⁾ OJ C 34, 2.2.2015.

Judgment of the Court (Fourth Chamber) of 14 December 2016 (request for a preliminary ruling from the Hoge Raad der Nederlanden — Netherlands) — Connexxion Taxi Services BV v Staat der Nederlanden, Transvision BV, Rotterdamse Mobiliteit Centrale RMC BV, Zorgvervoercentrale Nederland BV

(Case C-171/15) ⁽¹⁾

(Reference for a preliminary ruling — Public service contracts — Directive 2004/18/EC — Article 45 (2) — Personal situation of the candidate or tenderer — Optional grounds of exclusion — Grave professional misconduct — National legislation providing for a case-by-case assessment in accordance with the principle of proportionality — Decisions of the contracting authorities — Directive 89/665/EEC — Judicial review)

(2017/C 046/03)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Applicant: Connexxion Taxi Services BV

Defendants: Staat der Nederlanden, Transvision BV, Rotterdamse Mobiliteit Centrale RMC BV, Zorgvervoercentrale Nederland BV

Operative part of the judgment

1. EU law, in particular Article 45(2) of Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts, does not preclude national legislation, such as that at issue in the main proceedings, which requires a contracting authority to assess, in accordance with the principle of proportionality, whether it is in fact appropriate to exclude from a public contract a tenderer which has been guilty of grave professional misconduct.
2. The provisions of Directive 2004/18, in particular those of Article 2 of and Annex VII A, point 17, thereto, read in the light of the principle of equal treatment and the obligation of transparency which derives from that, must be interpreted as precluding a contracting authority from deciding to award a public contract to a tenderer which has been guilty of grave professional misconduct on the ground that the exclusion of that tenderer from the award procedure would be contrary to the principle of proportionality, even though, according to the tender conditions of that contract, a tenderer which has been guilty of grave professional misconduct must necessarily be excluded, without consideration of the proportionality of that sanction.

⁽¹⁾ OJ C 213, 29.6.2015.