Judgment of the Court (Eighth Chamber) of 7 September 2016 (request for a preliminary ruling from the Højesteret — Denmark) — Finn Frogne A/S v Rigspolitiet ved Center for Beredskabskommunikation

(Case C-549/14) ([1])

(Reference for a preliminary ruling — Public procurement — Directive 2004/18/EC — Article 2 — Principle of equal treatment — Obligation of transparency — Contract for the supply of a complex communications system — Difficulties in performance of the contract — Disagreement of the parties in regard to areas of responsibility — Settlement — Reduction in the scope of the contract — Transformation of a rental of equipment into a sale of equipment — Material amendment to a contract — Justification by the objective expediency of achieving a settlement agreement)

(2016/C 402/04)

Language of the case: Danish

Referring court

Højesteret

Parties to the main proceedings

Applicant: Finn Frogne A/S

Defendant: Rigspolitiet ved Center for Beredskabskommunikation

Operative part of the judgment

Article 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 must be interpreted as meaning that, following the award of a public contract, a material amendment cannot be made to that contract without a new tendering procedure being initiated even in the case where that amendment is, objectively, a type of settlement agreement, with both parties agreeing to mutual waivers, designed to bring an end to a dispute the outcome of which is uncertain, which arose from the difficulties encountered in the performance of that contract. The position would be different only if the contract documents provided for the possibility of adjusting certain conditions, even material ones, after the contract had been awarded and fixed the detailed rules for the application of that possibility.

([1]) OJ C 127, 20.4.2015.

Judgment of the Court (Fifth Chamber) of 7 September 2016 — European Commission v Hellenic Republic

(Case C-584/14) ([1])

(Failure of a Member State to fulfil obligations — Environment obligations — Directive 2006/12/EC — Directive 91/689/EEC — Directive 1999/31/EC — Waste management — Judgment of the Court establishing a failure to fulfil obligations — Non-implementation — Article 260(2) TFEU — Pecuniary penalties — Periodic penalty payment — Lump sum)

(2016/C 402/05)

Language of the case: Greek

Parties

Applicant: European Commission (represented by: M. Patakia, E. Sanfrutos Cano and D. Loma-Osorio Lerena, acting as Agents)

Defendant: Hellenic Republic (represented by: E. Skandalou, acting as Agent)

Operative part of the judgment

The Court:

1. *Declares that, by failing to adopt all of the measures necessary to comply with the judgment of 10 September 2009 in Commission v Greece (C-286/08, not published, EU:C:2009:543), the Hellenic Republic has failed to fulfil its obligations under Article 260(1) TFEU;*

2. *Orders the Hellenic Republic to pay the European Commission, into the 'European Union own resources' account, a penalty payment of EUR 30 000 for each day of delay in adopting the measures necessary to comply with the judgment of 10 September 2009 in Commission v Greece (C-286/08, not published, EU:C:2009:543), from the date of delivery of the present judgment until full compliance with the judgment of 10 September 2009 in Commission v Greece (C-286/08, not published, EU:C:2009:543). That amount is divided into three parts, corresponding to the three heads of claim invoked by the European Commission and is equivalent, with respect to the first head of claim, to 10 % of the total amount of the penalty payment, namely EUR 3 000, with respect to the second head of claim, to 45 % of that amount, namely EUR 13 500, as well as with respect to the third head of claim, which, as regards the proper management of so-called 'historical' waste, will be subject to a six-monthly reduction as a pro rata of the volume of that waste the management of which was in compliance. That reduction is limited to 50 % of the amount of the penalty payment corresponding to that head of claim, that is to say, EUR 6 750;*

3. *Orders the Hellenic Republic to pay the European Commission, into the 'European Union own resources' account, a lump sum of EUR 10 million;*

4. *Orders the Hellenic Republic to pay the costs.*

([1]) OJ C 81, 9.3.2015.

Judgment of the Court (Fourth Chamber) of 7 September 2016 — Pilkington Group Ltd, Pilkington Automotive Ltd, Pilkington Automotive Deutschland GmbH, Pilkington Holding GmbH, Pilkington Italia SpA v European Commission

(Case C-101/15 P) ([1])

(Appeal — Agreements, decisions and concerted practices — Article 101 TFEU — Article 53 of the Agreement on the European Economic Area of 2 May 1992 — European market for automotive glass — Market-sharing agreements and exchanges of commercially sensitive information — Fines — 2006 Guidelines on the method of setting fines — Point 13 — Value of sales — Regulation (EC) No 1/2003 — Second subparagraph of Article 23(2) — Statutory ceiling of the fine — Exchange rate for the calculation of the ceiling of the fine — Amount of the fine — Unlimited jurisdiction — Mono-product undertakings — Proportionality — Equal treatment)

(2016/C 402/06)

Language of the case: English

Parties

Appellants: Pilkington Group Ltd, Pilkington Automotive Ltd, Pilkington Automotive Deutschland GmbH, Pilkington Holding GmbH, Pilkington Italia SpA (represented by: S. Wisking and K. Fountoukakos-Kyriakakos, Solicitors, and by C. Puech Baron, avocat)

Other party to the proceedings: European Commission (represented by: A. Biolan, M. Kellerbauer and H. Leupold, acting as Agents)

Operative part of the judgment

The Court:

1. *Dismisses the appeal;*

2. *Orders Pilkington Group Ltd, Pilkington Automotive Ltd, Pilkington Automotive Deutschland GmbH, Pilkington Holding GmbH and Pilkington Italia SpA to pay the costs.*

([1]) OJ C 81, 9.3.2015.