

**Judgment of the Court (Fourth Chamber) of 8 December 2016 (request for a preliminary ruling from the Consiglio di Stato — Italy) — Undis Servizi Srl v Comune di Sulmona**

(Case C-553/15) <sup>(1)</sup>

*(Reference for a preliminary ruling — Public service contracts — Award of the contract without initiating a tendering procedure — So-called ‘in-house’ award — Conditions — Similar control — Performance of the essential activity — Successful public capital tendering company owned by several local authorities — Activity also carried out for the benefit of local authorities which are not shareholders — Activity imposed by a public authority which is not a shareholder)*

(2017/C 038/06)

Language of the case: Italian

**Referring court**

Consiglio di Stato

**Parties to the main proceedings**

Applicant: Undis Servizi Srl

Defendant: Comune di Sulmona

Other party to the proceedings: Cogesa SpA

**Operative part of the judgment**

1. In the context of the application of the Court’s case-law on direct awards of so-called ‘in-house’ public contracts, in order to determine whether the contractor carries out the essential part of its activity for the contracting authority, including local authorities which are its controlling shareholders, an activity imposed on that contractor by a non-shareholder public authority for the benefit of local authorities which are also not shareholders of that contractor and do not exercise any control over it must not be taken into account, since that activity must be regarded as being carried out for third parties.
2. For the purpose of determining whether the contractor carries out the essential part of its activity for the shareholder local authorities which jointly exercise over it control similar to that which they exercise over their own departments, account must be taken of all the circumstances of the case, which may include activity carried out by that contractor for those local authorities before such joint control took effect.

---

<sup>(1)</sup> OJ C 27, 25.1.2016.

---

**Judgment of the Court (Tenth Chamber) of 8 December 2016 (request for a preliminary ruling from the Hoge Raad der Nederlanden — the Netherlands) — Staatssecretaris van Financiën v Lemnis Lighting BV**

(Case C-600/15) <sup>(1)</sup>

*(Reference for a preliminary ruling — Regulation (EEC) No 2658/87 — Customs union and Common Customs Tariff — Tariff classification — Combined Nomenclature — Headings 8539, 8541, 8543, 8548 and 9405 — Light-emitting diode bulbs (LED))*

(2017/C 038/07)

Language of the case: Dutch

**Referring court**

Hoge Raad der Nederlanden