

**Judgment of the Court (Sixth Chamber) of 26 July 2017 — AGC Glass Europe, AGC Automotive Europe, AGC France, AGC Flat Glass Italia Srl, AGC Glass UK Ltd, AGC Glass Germany GmbH v European Commission**

(Case C-517/15 P) <sup>(1)</sup>

*(Appeal — Competition — Articles 101 and 102 TFEU — Regulation (EC) No 1/2003 — Article 30 — Decision of the European Commission finding an unlawful cartel on the European market for automotive glass — Publication of a non-confidential version of that decision — Rejection of a request for confidential treatment of certain information — Terms of reference of the hearing officer — Decision 2011/695/EU — Article 8 — Confidentiality — Information from a leniency application — Partial rejection of the request for confidential treatment — Legitimate expectations — Equal treatment)*

(2017/C 309/05)

Language of the case: English

**Parties**

*Appellants:* AGC Glass Europe, AGC Automotive Europe, AGC France, AGC Flat Glass Italia Srl, AGC Glass UK Ltd, AGC Glass Germany GmbH (represented by: L. Garzaniti, F. Hoseinian and A. Burckett St Laurent, avocats)

*Other party to the proceedings:* European Commission (represented by: G. Meessen, P. Van Nuffel and F. van Schaik, acting as Agents)

**Operative part of the judgment**

*The Court:*

1. Dismisses the appeal;
2. Orders AGC Glass Europe SA, AGC Automotive Europe SA, AGC France SAS, AGC Flat Glass Italia Srl, AGC Glass UK Ltd and AGC Glass Germany GmbH to pay the costs.

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<sup>(1)</sup> OJ C 398, 30.11.2015.

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**Judgment of the Court (Fourth Chamber) of 26 July 2017 (request for a preliminary ruling from the Consiglio di Stato — Italy) — Europa Way Srl, Persidera SpA v Autorità per le Garanzie nelle Comunicazioni, Ministero dello Sviluppo Economico, Presidenza del Consiglio dei Ministri, Ministero dell'Economia e delle Finanze**

(Case C-560/15) <sup>(1)</sup>

*(Reference for a preliminary ruling — Electronic communications networks and services — Telecommunication services — Directives 2002/20/EC, 2002/21/EC and 2002/77/EC — Allocation of the rights to use digital terrestrial broadcasting radio frequencies for radio and television — Annulment of a free of charge on-going selection procedure ('beauty contest') and substitution of a fee-based auction for that procedure — Intervention of the national legislature — Independence of the national regulatory authorities — Prior consultation — Award criteria — Legitimate expectations)*

(2017/C 309/06)

Language of the case: Italian

**Referring court**

Consiglio di Stato

**Parties to the main proceedings**

*Applicants:* Europa Way Srl, Persidera SpA

*Defendants:* Autorità per le Garanzie nelle Comunicazioni, Ministero dello Sviluppo Economico, Presidenza del Consiglio dei Ministri, Ministero dell'Economia e delle Finanze

*Intervening parties:* Elettronica Industriale SpA, Cairo Network Srl, Tivuitalia SpA, Radiotelevisione italiana SpA (RAI), Sky Italia Srl

### Operative part of the judgment

1. Article 3(3a) of Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive), as amended by Directive 2009/140/EC of the European Parliament and of the Council of 25 November 2009, must be interpreted as precluding the annulment, by a national legislature, of an on-going selection procedure for the allocation of radio frequencies conducted by the competent national regulatory authority in circumstances such as those of the case in the main proceedings which was suspended by ministerial order.
2. Article 9 of Directive 2002/21, as amended by Directive 2009/140, Articles 3, 5 and 7 of Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive), as amended by Directive 2009/140, and Articles 2 and 4 of Commission Directive 2002/77/EC of 16 September 2002 on competition in the markets for electronic communications networks and services, must be interpreted as not precluding a selection procedure for the allocation of radio frequencies free of charge, which was commenced in order to remedy the unlawful exclusion of certain operators from the market, from being replaced by a fees-based procedure initiated under an amended Radio Frequency Allocation Plan subsequent to a reduction in their number, provided that the new selection procedure is based on objective, transparent, non-discriminatory and proportionate criteria and that it is in line with the objectives laid down in Article 8(2) to (4) of Directive 2002/21, as amended. It is for the referring court to ascertain, taking into account all the relevant circumstances of the case, whether the conditions set out in the fee-based selection procedure are such as to allow an actual entry of new entrants into the digital television market without unduly favouring analogue or digital incumbents.
3. The principle of legitimate expectations must be interpreted as not precluding the annulment of a selection procedure for the allocation of radio frequencies on the sole ground that operators, such as the applicants in the main proceedings, had been invited to tender and, as the only tenderers, would have been granted rights to use digital terrestrial broadcasting frequencies for radio and television had the procedure not been annulled.

<sup>(1)</sup> OJ C 38, 1.2.2016.

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**Judgment of the Court (Fifth Chamber) of 26 July 2017 (request for a preliminary ruling from the Bundesarbeitsgericht — Germany) — Proceedings brought by Jan Šalplachta**

(Case C-670/15) <sup>(1)</sup>

*(Reference for a preliminary ruling — Area of freedom, security and justice — Access to justice in cross-border disputes — Directive 2003/8/EC — Minimum common rules relating to legal aid granted for such disputes — Scope — Legislation of a Member State providing that the costs of translation of the supporting documents necessary for the processing of a legal aid application are not reimbursable)*

(2017/C 309/07)

Language of the case: German

### Referring court

Bundesarbeitsgericht

### Parties to the main proceedings

Jan Šalplachta