

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) ⁽¹⁾

(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.

⁽¹⁾ 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) ⁽¹⁾

(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

Parties to the main proceedings

Applicant: Staatssecretaris van Financiën

Defendant: Lemnis Lighting BV

Operative part of the judgment

The Combined Nomenclature in Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, as amended by Commission Regulation (EC) No 1214/2007 of 20 September 2007, must be interpreted as meaning that goods such as the LED bulbs at issue in the main proceedings fall, subject to the referring court's assessment of all the facts before it, under heading 8543 of that nomenclature.

⁽¹⁾ OJ C 48, 8.2.2016.

Judgment of the Court (Sixth Chamber) of 7 December 2016 (request for a preliminary ruling from the Općinski sud u Velikoj Gorici — Croatia) — Vodoopskrba i odvodnja d.o.o. v Željka Klafurić

(Case C-686/15) ⁽¹⁾

(Reference for a preliminary ruling — Environment — Directive 2000/60/EC — Framework for an EU water policy — Recovery of the costs of services connected with water use — Calculation of the amount due from the consumer — Variable component related to actual consumption and fixed component independent of that consumption)

(2017/C 038/08)

Language of the case: Croatian

Referring court

Općinski sud u Velikoj Gorici

Parties to the main proceedings

Applicant: Vodoopskrba i odvodnja d.o.o.

Defendant: Željka Klafurić

Operative part of the judgment

Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy must be interpreted as not precluding national legislation, such as that at issue in the main proceedings, which provides that the price of water services invoiced to the consumer includes not only a variable component calculated according to the volume of water actually consumed by the person concerned, but also a fixed component which is not connected with that volume.

⁽¹⁾ OJ C 111, 29.3.2016.