

Parties to the main proceedings

Applicant: Fondul Proprietatea SA

Defendant: SC Hidroelectrica SA

Questions referred

1. For the purposes of Article 107 TFEU, is the holding by a Romanian publicly-funded company of shares in a joint (Romanian-Turkish) company equivalent to State aid subject to the obligation to notify set out in Article 108(3) TFEU?

Does it constitute public funding selective in nature, and could it have an effect on trade between Member States of the European Union?

2. Can it be held that such a shareholding by a publicly-owned electricity-producing company infringes the principle of separating transmission systems from transmission system operators established by Article 9 of Directive 2009/72/EC⁽¹⁾ concerning rules adopted for the internal market in electricity?

⁽¹⁾ Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC (OJ 2009 L 211, p. 55).

Action brought on 26 January 2016 — European Commission v Republic of Finland

(Case C-42/16)

(2016/C 118/15)

Language of the case: Finnish

Parties

Applicant: European Commission (represented by: J. Hottiaux and I. Koskinen, acting as Agents)

Defendant: Republic of Finland

Form of order sought

— declare that, by issuing duplicate driving licences whose administrative validity period expires on 18 January 2033, the Republic of Finland has failed to fulfil its obligations under Articles 1 and 7(2) of Directive 2006/126/EC of the European Parliament and of the Council of 20 December 2006 on driving licences⁽¹⁾ and that, by failing to join the EU driving licence network, the Republic of Finland has failed to fulfil its obligations under Article 7(5)(d) of Directive 2006/126/EC;

— order the Republic of Finland to pay the costs.

Pleas in law and main arguments

One of the main aims of Directive 2006/126/EC is to raise the level of protection of driving licences. By applying the time limits under the directive, that aim may be realised and the latest methods made use of when issuing driving licences for preventing fraud and achieving the traffic safety objectives of the directive. Article 1 of Directive 2006/126/EC requires the introduction of a national driving licence based on the Community model in Annex I. Article 7(1) of the directive lays down requirements for driving licences and Article 7(2) defines the administrative validity of driving licences issued as from 19 February 2013. The administrative validity period of duplicate driving licences issued in Finland after 19 January 2013 can be much longer than is permitted by Article 7(2)(a) and (b) of Directive 2006/126/EC.

In accordance with Article 7(5)(d) of Directive 2006/126/EC, the Member States are to use the EU driving licence network once the network is brought into operation. The EU driving licence network (RESPER) has been set up and it became operational on 19 January 2013. Since Finland has not joined the EU driving licence network (RESPER), it is not possible to ascertain in the network whether the conditions for issuing a driving licence are satisfied. The other Member States cannot check together with Finland the fulfilment of the conditions for issuing a driving licence, and cannot exchange information with Finland through the network. The exchange of information in accordance with Article 15 of Directive 2006/126/EC is thus not possible with Finland by using the EU driving licence network.

⁽¹⁾ OJ 2006 L 403, p. 18.

Action brought on 1 February 2016 — European Commission v Federal Republic of Germany

(Case C-58/16)

(2016/C 118/16)

Language of the case: German

Parties

Applicant: European Commission (represented by: W. Mölls and L. Nicolae, acting as Agents)

Defendant: Federal Republic of Germany

Form of order sought

The applicant claims that the Court should:

- declare that, by failing to ensure that, for all ports in Nordrhein-Westfalen, the boundaries of each port are defined, that port security assessments and port security plans are established and that port security officers are approved, the Federal Republic of Germany has failed to fulfil its obligations under Articles 2(3), 6, 7 and 9 of Directive 2005/65/EC ⁽¹⁾ of the European Parliament and of the Council of 26 October 2005 on enhancing port security;
- order the Federal Republic of Germany to pay the costs.

Pleas in law and main arguments

Pursuant to Article 6 of Directive 2005/65/EC, Member States are required to ensure that a port security assessment is carried out for each of the ports covered by that directive and that it is approved by the Member State concerned. Pursuant to Annex I to that directive, such port security assessments must include all areas that are relevant to port security, including the port boundaries.

Pursuant to Article 2(3), Member States are required to define the boundaries for each port, taking into account, as appropriate, information resulting from the port security assessment. Article 2(4) deal with the case in which the boundaries of a port facility within the meaning of Regulation (EC) No 725/2004 ⁽²⁾ effectively cover the port.

The inspection carried out in 2013 revealed that, for at least eleven of the ports in Nordrhein-Westfalen covered by Directive 2005/65/EC, no security assessment had been carried out. It is evident from subsequent correspondence that that situation has not to date been remedied.

At least as far as those ports are concerned, the boundaries of the port facilities have also not been defined, since the definition of those boundaries is in turn based on the security assessments, as mentioned above.