

Judgment of the Court (Ninth Chamber) of 19 April 2018 (request for a preliminary ruling from the Corte suprema di cassazione — Italy) — Oftalma Hospital Srl v C.I.O.V. — Commissione Istituti Ospitalieri Valdesi, Regione Piemonte

(Case C-65/17) ⁽¹⁾

(Reference for a preliminary ruling — Public service contracts — Health and social services — Award contrary to the rules on public procurement — Requirement to comply with the principles of transparency and equal treatment — Concept of ‘certain cross-border interest’ — Directive 92/50/EEC — Article 27)

(2018/C 200/17)

Language of the case: Italian

Referring court

Corte suprema di cassazione

Parties to the main proceedings

Applicant: Oftalma Hospital Srl

Defendants: C.I.O.V. — Commissione Istituti Ospitalieri Valdesi, Regione Piemonte

Intervener: Azienda Sanitaria Locale di Torino (TO1)

Operative part of the judgment

1. When awarding a public service contract that falls within the scope of Article 9 of Council Directive 92/50/EEC of 18 June 1992 relating to the coordination of procedures for the award of public service contracts, as amended by European Parliament and Council Directive 97/52/EC of 13 October 1997, and is, consequently, in principle, subject only to Articles 14 and 16 of that directive, a contracting authority is nonetheless also required to comply with the fundamental rules and general principles of the FEU Treaty, in particular the principles of equal treatment and non-discrimination on the grounds of nationality and the consequent obligation of transparency, provided that, at the date of its award, the contract had certain cross-border interest, which it is for the referring court to verify.
2. Article 27(3) of Directive 92/50 must be interpreted as not applying to public service contracts referred to in Annex I B to that directive.

⁽¹⁾ OJ C 144, 8.5.2017.

Judgment of the Court (Seventh Chamber) of 19 April 2018 — Fiesta Hotels & Resorts, SL v European Union Intellectual Property Office (EUIPO), Residencial Palladium, SL

(Case C-75/17 P) ⁽¹⁾

(Appeal — EU trade mark — Regulation (EC) No 207/2009 — Article 8(4) — Article 65 — Unregistered trade name GRAND HOTEL PALLADIUM — Figurative mark containing the word elements ‘PALLADIUM PALACE IBIZA RESORT & SPA’ — Application for a declaration of invalidity based on a prior right acquired pursuant to national law — Conditions — Sign of more than merely local significance — Right to prohibit the use of a later trade mark)

(2018/C 200/18)

Language of the case: Spanish

Parties

Appellant: Fiesta Hotels & Resorts, SL (represented by: J.-B. Devaureix and J.C. Erdozain López, abogados)

Other parties to the proceedings: European Union Intellectual Property Office (EUIPO) (represented by: J. Crespo Carrillo and D. Botis, acting as Agents), Residencial Palladium, SL (represented by: D. Solana Giménez, abogado)

Operative part of the judgment

The Court:

1. Dismisses the appeal;
2. Orders Fiesta Hotels & Resorts SL to pay the costs.

⁽¹⁾ OJ C 151, 15.5.2017.

Judgment of the Court (Sixth Chamber) of 12 April 2018 — European Commission v Kingdom of Belgium

(Case C-110/17) ⁽¹⁾

(Failure of a Member State to fulfil obligations — Free movement of capital — Article 63 TFEU — Article 40 of the EEA Agreement — Tax on the income of Belgian residents — Calculation of income from immovable property — Application of two different calculation methods depending on the place in which the immovable property is situated — Calculation on the basis of the cadastral value for immovable property located in Belgium — Calculation based on the actual rental value for immovable property located in another Member State of the European Union or the European Economic Area (EEA) — Difference in treatment — Restriction on the free movement of capital)

(2018/C 200/19)

Language of the case: French

Parties

Applicant: European Commission (represented by: W. Roels and N. Gossement, acting as Agents)

Defendant: Kingdom of Belgium (represented by: P. Cottin, M. Jacobs and L. Cornelis, acting as Agents)

Operative part of the judgment

The Court:

1. Declares that, by retaining provisions under which, in respect of the estimation of income relating to unrented immovable property or immovable property rented either to natural persons who do not use them for professional purposes or to legal persons which make such property available to natural persons for private purposes, the tax base is calculated on the basis of the cadastral value so far as immovable property on national territory is concerned, and on the actual rental value so far as immovable property located outside Belgium is concerned, the Kingdom of Belgium has failed to fulfil its obligations under Article 63 TFEU and Article 40 of the Agreement on the European Economic Area of 2 May 1992;
2. Orders the Kingdom of Belgium to pay the costs.

⁽¹⁾ OJ C 121, 18.4.2017.