Parties to the main proceedings

Applicant: Autoritatea națională de reglementare în domeniul energiei (ANRE)

Defendant: Societatea de Producere a Energiei Electrice în Hidrocentrale Hidroelectrica SA

Operative part of the judgment

Articles 35 and 36 TFEU must be interpreted as meaning that national legislation, as interpreted by the authority responsible for applying it, which requires national electricity producers to offer for sale all the electricity available to them on the platforms managed by the only operator designated for national electricity market trading services, constitutes a measure having equivalent effect to a quantitative restriction on exports that cannot be justified on grounds of public security connected to the security of energy supply, in so far as such legislation is not proportionate to the objective pursued.

([1]) OJ C 25, 21.1.2019.

Judgment of the Court (Grand Chamber) of 22 September 2020 (requests for a preliminary ruling from the Cour de cassation — France) — Cali Apartments SCI (C-724/18) and HX (C-727/18) v Procureur général près la cour d'appel de Paris and Ville de Paris

(Joined Cases C-724/18 and C-727/18) ([1])

(References for a preliminary ruling — Directive 2006/123/EC — Scope — Repeated short-term letting of furnished premises to a transient clientele which does not take up residence there — National legislation imposing a prior authorisation scheme for certain specific municipalities and making those municipalities responsible for defining the conditions for granting the authorisations provided for by that scheme — Article 4(6) — Concept of 'authorisation scheme' — Article 9 — Justification — Insufficient supply of affordable long-term rental housing — Proportionality — Article 10 — Requirements relating to the conditions for granting authorisations)

(2020/C 390/05)

Language of the case: French

Referring court

Cour de cassation

Parties to the main proceedings

Appellants in cassation: Cali Apartments SCI (C-724/18) and HX (C-727/18)

Respondents in cassation: Procureur général près la cour d'appel de Paris and Ville de Paris

Operative part of the judgment

1. Articles 1 and 2 of Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market must be interpreted as meaning that that directive applies to legislation of a Member State relating to activities consisting in the repeated short-term letting, for remuneration, whether on a professional or non-professional basis, of furnished accommodation to a transient clientele which does not take up residence there;

2. Article 4 of Directive 2006/123 must be interpreted as meaning that national legislation which makes the exercise of certain activities consisting in the letting of residential premises subject to prior authorisation is covered by the concept of 'authorisation scheme' within the meaning of paragraph 6 of that article;

3. Article 9(1)(b) and (c) of Directive 2006/123 must be interpreted as meaning that national legislation which, for reasons intended to ensure a sufficient supply of affordable long-term rental housing, makes certain activities consisting in the repeated short-term letting, for remuneration, of furnished accommodation to a transient clientele which does not take up residence there subject to a prior authorisation scheme applicable in certain municipalities where rent pressure is particularly severe is (i) justified by an overriding reason relating to the public interest consisting in combating the rental housing shortage and (ii) proportionate to the objective pursued, inasmuch as that objective cannot be attained by means of a less restrictive measure, in particular because an a posteriori inspection would take place too late to be genuinely effective;

4. Article 10(2) of Directive 2006/123 must be interpreted as not precluding national legislation introducing a scheme which makes the exercise of certain activities consisting in the letting, for remuneration, of furnished accommodation subject to prior authorisation, which is based on criteria relating to the fact that the premises in question are let 'repeatedly for short periods to a transient clientele which does not take up residence there' and which gives the local authorities the power to specify, within the framework laid down by that legislation, the conditions for granting the authorisations provided for by that scheme in the light of social diversity objectives and according to the characteristics of the local housing markets and the need to avoid exacerbating the housing shortage, making those authorisations subject, if necessary, to an offset requirement in the form of the concurrent conversion of non-residential premises into housing, provided that those granting conditions are in line with the requirements laid down by that provision and that that requirement can be met under conditions that are transparent and accessible.

(1) OJ C 35, 28.1.2019.

Judgment of the Court (Fifth Chamber) of 17 September 2020 (request for a preliminary ruling from the Hoge Raad der Nederlanden — Netherlands) — Criminal proceedings against JZ

(Case C-806/18) (1)

(Reference for a preliminary ruling — Area of freedom, security and justice — Return of illegally staying third-country nationals — Directive 2008/115/EC — Article 11 — Entry ban — Third-country national against whom an entry ban was issued but who never left the Member State concerned — National legislation providing for a custodial sentence in the event of the third-country national staying in that Member State despite notice of the entry ban issued against him)

(2020/C 390/06)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Party/parties in the main proceedings

JZ

Operative part of the judgment

Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, and in particular Article 11 thereof, must be interpreted as not precluding legislation of a Member State which provides that a custodial sentence may be imposed on an illegally staying third-country national for whom the return procedure set out in that directive has been exhausted but who has not actually left the territory of the Member States, where the criminal act consists in an unlawful stay with notice of an entry ban, issued in particular on account of that third-country national's criminal record or the threat he represents to public policy or national security, provided that the criminal act is not defined as a breach of such an entry ban and that that legislation is sufficiently accessible, precise and foreseeable in its application in order to avoid all risk of arbitrariness, which is for the referring court to ascertain.

(1) OJ C 122, 1.4.2019.