

Questions referred

1. Does the scope of Directive 96/71/EC ⁽¹⁾ of 16 December 1996 concerning the posting of workers in the framework of the provision of services (also referred to hereafter as the Directive for short), in particular Article 1(3)(a), also cover the provision of services such as the provision of food and drink to passengers, on-board service or cleaning services by the workers of a service-providing undertaking established in the Member State of posting (Hungary) in performance of a contract with a railway undertaking established in the host Member State (Austria) when these services are provided on international trains which also travel through the host Member State?
2. Does Article 1(3)(a) of the Directive also cover the situation where the service-providing undertaking established in the Member State of posting provides the services mentioned in Question 1 not in performance of a contract with the railway undertaking established in the host Member State, which is the ultimate beneficiary of the services (recipient of the services), but rather in performance of a contract with another undertaking based in the host Member State which, in turn, is in a contractual relationship (subcontracting chain) with the railway undertaking?
3. Does Article 1(3)(a) of the Directive also cover the situation where, to provide the services mentioned in Question 1, the service-providing undertaking established in the Member State of posting does not use its own workers but uses workers of another undertaking which were hired out to it back in the Member State of posting?
4. Irrespective of the answers to Questions 1 to 3: Does EU law, in particular the freedom to provide services (Article 56 and 57 TFEU), preclude a provision of national law which also mandatorily requires undertakings which post workers to the territory of another Member State for the purpose of providing a service to comply with terms and conditions of employment within the meaning of Article 3(1) of the Directive and to comply with accompanying obligations (such as, in particular, the obligation to provide a notification regarding the cross-border posting of workers to a public authority in the host Member State and the obligation to retain documents relating to the level of remuneration and to the social security registration of these workers) in situations in which (firstly) the workers posted across borders form part of the mobile staff of a railway undertaking that is active on a cross-border basis or of an undertaking which provides services typical for a railway undertaking (provision of food and drink to passengers, on-board service) on that undertaking's trains which cross the borders of the Member States, and in which (secondly) the posting is based either on no service contract at all or at least on no service contract between the undertaking making the posting and the recipient of the services which is active in another Member State, because the posting undertaking's obligation to provide services to the recipient of the services which is active in another Member State is established by way of subcontracts (a subcontracting chain), and in which (thirdly) the posted worker is not in an employment relationship with the undertaking making the posting but rather is in an employment relationship with a third-party undertaking which has hired out its workers to the undertaking making the posting back in the Member State in which the posting undertaking is established?

⁽¹⁾ Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services, OJ 1997 L 18, p. 1.

Request for a preliminary ruling from the Tribunalul Mureş (Romania) lodged on 9 January 2018 — Criminal proceedings against Virgil Mailat, Delia Elena Mailat and Apcom Select SA

(Case C-17/18)

(2018/C 123/16)

Language of the case: Romanian

Referring court

Tribunalul Mureş

Parties to the main proceedings

Virgil Mailat, Delia Elena Mailat and Apcom Select SA

Questions referred

1. Does the conclusion of an agreement whereby a company leases a building in which specific catering activities had previously been carried on in a restaurant to another company, together with all capital equipment and inventory items, where the tenant company continues the same catering activities in a restaurant with the same name as was used previously, constitute a transfer of a business within the meaning of Articles 19 and 29 of Directive 2006/112/EC? ⁽¹⁾
2. In the event that Question 1 is answered in the negative, is the transaction described above a supply of services that may be regarded as the letting of immovable property within the meaning of Article 135(1)(l) of [Directive 2006/112/EC], or a supply of complex services that may not be regarded as the letting of immovable property and that is taxable by operation of the law?

⁽¹⁾ OJ 2006 L 347, p. 1.

Request for a preliminary ruling from the Amtsgericht Darmstadt (Germany) lodged on 11 January 2018 — TopFit e. V., Daniele Biffi v Deutscher Leichtathletikverband e. V.

(Case C-22/18)

(2018/C 123/17)

Language of the case: German

Referring court

Amtsgericht Darmstadt

Parties to the main proceedings

Applicants: TopFit e. V., Daniele Biffi

Defendant: Deutscher Leichtathletikverband e. V.

Questions referred

1. Are Articles 18, 21 and 165 TFEU to be interpreted as meaning that a provision in the Athletics Rules of an association of a Member State which makes participation in national championships dependent on having the nationality of the Member State amounts to impermissible discrimination?
2. Are Articles 18, 21 and 165 TFEU to be interpreted as meaning that an association of a Member State impermissibly discriminates against amateur athletes who do not have the nationality of the Member State by allowing them to participate in national championships but only letting them start 'outside classification' or 'without classification' and not letting them participate in the finals of races and contests?
3. Are Articles 18, 21 and 165 TFEU to be interpreted as meaning that an association of a Member State impermissibly discriminates against amateur athletes who do not have the nationality of the Member State by excluding them from the award of national titles or from the standings?

Request for a preliminary ruling from the Administrativen sad Sofia-grad (Bulgaria) lodged on 17 January — Elektrorazpredelenie Yug EAD v Komisia za energiyno i vodno regulirane

(Case C-31/18)

(2018/C 123/18)

Language of the case: Bulgarian

Referring court

Administrativen sad Sofia-grad