

Defendants: Comune di Montelanico, Comune di Supino, Comune di Sgurgola, Comune di Trivigliano

Question referred

Do the Community principles of the protection of legitimate expectations and legal certainty, together with the principles of the free movement of goods, the freedom of establishment and the freedom to provide services, laid down in the Treaty on the Functioning of the European Union (TFEU), as well as the principles deriving therefrom, such as equality of treatment, non-discrimination, mutual recognition, proportionality and transparency, referred to in Directive 2014/24/EU, ⁽¹⁾ preclude the application of national legislation, such as the Italian legislation founded on the combined provisions of Article 95(10) and Article 83(9) of Legislative Decree No 50/2016, according to which the failure to list the labour costs separately in the financial tender in a procedure for the award of public services inevitably results in the exclusion of the tendering undertaking concerned without the possibility of supplementing or amending its tendering documentation, even in the case where the obligation to list those costs separately was not set out in the tender documents, and even though, in substantive terms, the tender in question actually took into account the minimum labour costs, in accordance, moreover, with a declaration for that purpose made by the tenderer?

⁽¹⁾ Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ 2014 L 94, p. 65).

Request for a preliminary ruling from the Spetsializiran nakazatelen sad (Bulgaria) lodged on 11 May 2018 — Criminal proceedings against Emil Milev

(Case C-310/18)

(2018/C 268/30)

Language of the case: Bulgarian

Referring court

Spetsializiran nakazatelen sad

Party to the main proceedings

Emil Milev

Questions referred

(1) Is national case-law according to which the continuation of a coercive measure of 'remand in custody' (four months after the accused's arrest) is subject to the existence of 'reasonable grounds', understood as a mere 'prima facie' finding that the accused may have committed the criminal offence in question, compatible with Article 3, the second sentence of Article 4(1), Article 10, the fourth and fifth sentences of recital 16 and recital 48 of Directive 2016/343 ⁽¹⁾ and with Articles 47 and 48 of the Charter [of Fundamental Rights of the European Union]?

Or, if it is not, is national case-law according to which the term 'reasonable suspicion' means a strong likelihood that the accused committed the criminal offence in question compatible with the abovementioned provisions?

(2) Is national case-law according to which the court determining an application to vary a coercive measure of 'remand in custody' that has already been adopted is required to state the reasons for its decision without comparing the inculpatory and exculpatory evidence, even if the accused's lawyer has submitted arguments to that effect — the only reason for that restriction being that the judge must preserve his impartiality in case that case should be assigned to him for the purposes of the substantive examination —, compatible with the second sentence of Article 4(1), Article 10, the fourth and fifth sentences of recital 16 and recital 48 of Directive 2016/43 and with Article 47 of the Charter [of Fundamental Rights of the European Union]?

Or, if it is not, is national case-law according to which the court is to carry out a more detailed and specific examination of the evidence and to give a clear answer to the arguments put forward by the accused's lawyer, even if it thus takes the risk that it will be unable to examine the case or deliver a final decision on guilt if the case is assigned to it for the purposes of the substantive examination, — which implies that another judge will examine the substance of the case — compatible with the abovementioned provisions?

⁽¹⁾ Directive (EU) 2016/343 of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings (OJ 2016 L 65, p. 1).

Request for a preliminary ruling from the Svea hovrätt (Sweden) lodged on 9 May 2018 — Dacom Limited v IPM Informed Portfolio Management AB

(Case C-313/18)

(2018/C 268/31)

Language of the case: Swedish

Referring court

Svea hovrätt

Parties to the main proceedings

Appellant: Dacom Limited

Respondent: IPM Informed Portfolio Management AB

Questions referred

- 1.1 What criteria are to determine whether material constitutes such preparatory design material as is referred to in Article 1(1) of Directive 2009/24/EC ⁽¹⁾ of the European Parliament and of the Council of 23 April 2009 on the legal protection of computer programs? Can documents which set out the requirements as to the functions which are to be performed by a computer program and the result which the computer program must achieve, for example detailed descriptions of investment principles or risk models for asset management including mathematical formulae to be applied in the computer program, constitute such preparatory design material?
 - 1.2 Must material, in order to constitute preparatory design material within the meaning of the directive, be so complete and detailed that in practice it requires no independent choices on the part of the person who actually writes the code of a computer program?
 - 1.3 Does the exclusive right to preparatory design material within the meaning of the directive mean that the computer program in which the preparatory design material subsequently results is to be regarded as an adaptation of the preparatory design material and therefore a dependent work for the purpose of copyright (Article 4(1)(b) of Directive 2009/24/EC), or that the preparatory design material and software are to be regarded as different forms of expression of the same work, or that they are two independent works?
- 2.1 Can a consultant employed by another company, but who has been working for a number of years for the same client and, in the execution of his duties or following the instructions given by the client, has created a computer program, be deemed to be an employee [of the client company] for the purpose of Article 2(3) of Directive 2009/24/EC?