

2. If the above question is answered in the affirmative, does national legislation such as that provided for in Article L. 631-7 of the Code de la construction et de l'habitation (Construction and Housing Code) constitute an authorisation scheme for the abovementioned activity for the purposes of Articles 9 to 13 of Directive 2006/123 of 12 December 2006, or solely a requirement subject to the provisions of Articles 14 and 15?

In the event that Articles 9 to 13 of Directive 2006/123/EC of 12 December 2006 are applicable:

3. Should Article 9(b) of that directive be interpreted as meaning that the objective of tackling the shortage of rental housing constitutes an overriding reason relating to the public interest capable of justifying a national measure which requires authorisation to be obtained, in certain geographical areas, for the repeated letting of furnished accommodation for residential use for short periods to a transient clientele which does not take up residence there?
4. If so, is such a measure proportionate to the objective pursued?
5. Does Article 10(2)(d) and (e) of the Directive preclude a national measure which requires authorisation to be obtained for the 'repeated' letting of furnished accommodation for residential use for 'short periods' to a 'transient clientele which does not take up residence there'?
6. Does Article 10(2)(d) to (g) of the Directive preclude an authorisation scheme whereby the conditions for granting authorisation are set, by decision of the municipal council, in the light of social diversity objectives, according to, inter alia, the characteristics of the markets for residential premises and the need to avoid exacerbating the housing shortage?

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<sup>(1)</sup> Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (OJ 2006 L 376, p. 36).

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**Request for a preliminary ruling from the Cour de cassation (France) lodged on 22 November 2018 — HX v Procureur général at the Cour d'appel de Paris, Ville de Paris**

(Case C-727/18)

(2019/C 35/17)

*Language of the case: French*

**Referring court**

Cour de cassation

**Parties to the main proceedings**

*Appellant in cassation:* HX

*Respondents in cassation:* Procureur général at the Cour d'appel de Paris, Ville de Paris

**Questions referred**

1. Having regard to the definition of the purpose and scope of application of Directive 2006/123/EC of 12 December 2006, <sup>(1)</sup> as set out in Articles 1 and 2 thereof, does that directive apply to the repeated letting for short periods, against consideration, including on a non-professional basis, of furnished accommodation for residential use, not constituting the lessor's main residence, to a transient clientele which does not take up residence there, particularly in the light of the concepts of 'providers' and 'services'?
2. If the above question is answered in the affirmative, does national legislation such as that provided for in Article L. 631-7 of the Code de la construction et de l'habitation (Construction and Housing Code) constitute an authorisation scheme for the abovementioned activity for the purposes of Articles 9 to 13 of Directive 2006/123 of 12 December 2006, or solely a requirement subject to the provisions of Articles 14 and 15?

In the event that Articles 9 to 13 of Directive 2006/123/EC of 12 December 2006 are applicable:

3. Should Article 9(b) of that directive be interpreted as meaning that the objective of tackling the shortage of rental housing constitutes an overriding reason relating to the public interest capable of justifying a national measure which requires authorisation to be obtained, in certain geographical areas, for the repeated letting of furnished accommodation for residential use for short periods to a transient clientele which does not take up residence there?
4. If so, is such a measure proportionate to the objective pursued?
5. Does Article 10(2)(d) and (e) of the Directive preclude a national measure which requires authorisation to be obtained for the 'repeated' letting of furnished accommodation for residential use for 'short periods' to a 'transient clientele which does not take up residence there'?
6. Does Article 10(2)(d) to (g) of the Directive preclude an authorisation scheme whereby the conditions for granting authorisation are set, by decision of the municipal council, in the light of social diversity objectives, according to, inter alia, the characteristics of the markets for residential premises and the need to avoid exacerbating the housing shortage?

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<sup>(1)</sup> Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (OJ 2006 L 376, p. 36).

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**Appeal brought on 27 November 2018 by the Portuguese Republic against the judgment delivered by the General Court (Fourth Chamber) on 26 September 2018 in Case T-463/16 Portugal v Commission**

**(Case C-737/18 P)**

(2019/C 35/18)

*Language of the case: Portuguese*

**Parties**

*Appellant:* Portuguese Republic (represented by: L. Ines Fernandes, P. Barros da Costa, P. Estêvão and J. Saraiva de Almeida, Agents)

*Other party to the proceedings:* European Commission

**Form of order sought**

The appellant claims that the Court should:

1. Set aside the judgment under appeal, in so far as, by that judgment, the General Court dismissed the action for annulment of European Commission (EC) Decision C(2016) 3753 <sup>(1)</sup> of 20 June 2016;
2. Annul European Commission (EC) Decision C(2016) 3753 of 20 June 2016, given that the Court of Justice is in a position to ascertain the validity of the claims made by the Portuguese Republic;
3. Order the European Commission to pay the costs.

**Grounds of appeal and main arguments**

The Portuguese Republic requests that the judgment under appeal be set aside and, accordingly, that the decision at issue be annulled, on the following grounds:

- 1) **Error of law and infringement of the principle of legal certainty** — Infringement of Article 24 of Regulation (EC) No 73/2009 <sup>(2)</sup>, and the provisions of the second subparagraph of Article 54(1)(c), and Article 71(1) of Regulation (EC) No 1122/2009; <sup>(3)</sup> and clear contradiction, arising from an error of law, with the findings in paragraphs 43 and 44 of the judgment under appeal, in that, in finding that the Commission's second ground was unfounded, the General Court presupposed that Portugal's cross-compliance control system was an effective control system, and, thus, in rejecting the ground while failing to annul the decision at issue, the General Court committed a manifest error of law and contradicted its own findings, thereby also infringing the principle of legal certainty.