

2. Does EU law (in particular Article 12(3) of Directive 2014/24/EU ⁽¹⁾ concerning the in-house award of contracts where similar control is exercised jointly with other authorities) preclude a provision of national law (such as that set out in Article 4(1) of the Consolidated Law concerning companies in which all or a majority of the share capital is in public ownership — Legislative Decree No 175 of 2016) which prevents a public authority from acquiring a shareholding (in any event one that can guarantee control or power of veto) in a body in which a number of other public authorities have shareholdings, where that authority intends in any event to acquire subsequently a position of joint control and therefore the possibility of making direct awards to that body in which a number of other public authorities have shareholdings?

⁽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 Consiglio di Stato (Italy) lodged on 5 February 2019 — Burgo Group SpA v Gestore dei Servizi Energetici — GSE

(Case C-92/19)

(2019/C 182/11)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Appellant: Burgo Group SpA

Respondent: Gestore dei Servizi Energetici — GSE

Questions referred

1. Does Directive 2004/8/EC ⁽¹⁾ (in particular Article 12 thereof) preclude an interpretation of Articles 3 and 6 of Legislative Decree No 20/2007 as allowing the benefits referred to in Legislative Decree No 79/1999 (in particular in Article 11 thereof and in Decision No 42/02 of 19 March 2002 of the Autorità dell'energia elettrica e del gas (Electricity and Gas Authority) which constitutes implementation of the preceding provision) to be granted also to non-high-efficiency cogeneration installations even beyond 31 December 2010?
2. Does Article 107 TFEU preclude an interpretation of Articles 3 and 6 of Legislative Decree No 20/2007, in the sense set out under [1] above, in so far as those provisions, as thus interpreted, might constitute 'State aid' and therefore be incompatible with the principle of free competition?

3. In line with what is set out under [1] and [2] above, and having regard to what is expressly put forward by the appellant, does a provision of national law which allows support schemes to continue to be granted to non-high-efficiency cogeneration until 31 December 2015 comply with the EU-law principles of equal treatment and non-discrimination, since that could be the interpretation of domestic Italian law as a result of Article 25(11)(c)(1) of Legislative Decree No 28 of 3 March 2011, which repeals the abovementioned provisions of Article 11 of Legislative Decree No 79/1999 with effect from 1 January 2016, or rather now by 19 July 2014 (as a result of Article 10(15) of Legislative Decree No 102 of 4 July 2014)?

(¹) Directive 2004/8/EC of the European Parliament and of the Council of 11 February 2004 on the promotion of cogeneration based on a useful heat demand in the internal energy market and amending Directive 92/42/EEC (OJ 2004 L 52, p. 50).

**Request for a preliminary ruling from the Corte suprema di cassazione (Italy) lodged on 6 February 2019 —
San Domenico Vetraria SpA v Agenzia delle Entrate**

(Case C-94/19)

(2019/C 182/12)

Language of the case: Italian

Referring court

Corte suprema di cassazione

Parties to the main proceedings

Appellant: San Domenico Vetraria SpA

Respondent: Agenzia delle Entrate

Question referred

Must Articles 2 and 6 of Sixth Council Directive 77/388/EEC of 17 May 1977 (¹) and the principal of fiscal neutrality be interpreted as precluding national legislation under which the lending or secondment of staff by a parent company in respect of which the subsidiary merely reimburses the related costs is regarded as irrelevant for value added tax purposes?

(¹) Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (OJ 1977 L 145, p. 1).