

**Request for a preliminary ruling from the Consiglio di Stato (Italy) lodged on 11 February 2019 — Industria Italiana Autobus SpA v Comune di Palermo**

(Case C-111/19)

(2019/C 182/17)

*Language of the case: Italian*

**Referring court**

Consiglio di Stato

**Parties to the main proceedings**

*Applicant:* Industria Italiana Autobus SpA

*Defendant:* Comune di Palermo

**Question referred**

Does EU law (in particular the principles of legitimate expectations, legal certainty, freedom of movement, freedom of establishment and freedom to provide services) preclude a national legislative provision, such as Article 83(9), Article 95(10) and Article 97(5) of the Italian ‘Codice dei contratti pubblici’ (‘Public Procurement Code’), under which failure to indicate labour costs and costs relating to the safety of workers by a tenderer in a public procurement procedure results in any event in the tenderer being excluded from the procedure without the tenderer being given, at a later stage, the benefit of the ‘*soccorso istruttorio*’ procedure (whereby a tenderer is given an opportunity to remedy shortcomings in his tender documentation after submission of his tender), even where the existence of such an obligation to indicate those costs is apparent from sufficiently clear legal provisions in the public domain and irrespective of the fact that the contract notice does not expressly refer to the legal obligation to provide specific information?

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**Request for a preliminary ruling from the Corte suprema di cassazione (Italy) lodged on 18 February 2019 — Azienda Sanitaria Provinciale di Catania v Assessorato della Salute della Regione Siciliana**

(Case C-128/19)

(2019/C 182/18)

*Language of the case: Italian*

**Referring court**

Corte suprema di cassazione

**Parties to the main proceedings**

*Appellant:* Azienda Sanitaria Provinciale di Catania

Respondent: Assessorato della Salute della Regione Siciliana

### Questions referred

1. On the basis of Articles 87 and 88 of the EC Treaty — and now Articles 107 and 108 TFEU — and the ‘Community Guidelines for State aid in the agriculture sector’ contained in Information from the Commission 2000/C 28/02, published in the *Official Journal of the European Communities* (OJ C 28, p. 2) of 1 February 2000, does the measure set out in Article 25(16) of Sicilian Regional Law No [19] of 22 December 2005, under which, ‘in pursuit of the objectives laid down in Article 1 of Sicilian Regional Law No 12 of 5 June 1989, pursuant to and in accordance with the provisions of Article 134 of Regional Law No 32 of 23 December 2000, expenditure of EUR 20 000 000 is authorised for the payment of amounts due from local health authorities in Sicily to owners of animals slaughtered as a result of being affected by infectious and widespread diseases in the period between 2000 and 2006, and for payment of the fee to veterinary professionals involved in the remediation activities during that period. For the purposes of this paragraph, the expenditure of EUR 10 000 000 (base provision 10.3.1.3.2, chapter 417702) is authorised for the 2005 financial year. For subsequent financial years, arrangements shall be made pursuant to Article 3(2)(i) of Regional Law No 10 of 27 April 1999, as amended’, constitute State aid which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods?
2. Although the provision laid down in Article 25(16) of Sicilian Regional Law No 19 of 22 December 2005, under which, ‘in pursuit of the objectives laid down in Article 1 of Sicilian Regional Law No 12 of 5 June 1989, pursuant to and in accordance with the provisions of Article 134 of Regional Law No 32 of 23 December 2000, expenditure of EUR 20 000 000 is authorised for the payment of amounts due from local health authorities in Sicily to owners of animals slaughtered as a result of being affected by infectious and widespread diseases in the period between 2000 and 2006, and for payment of the fee to veterinary professionals involved in the remediation activities during that period. For the purposes of this paragraph, the expenditure of EUR 10 000 000 (base provision 10.3.1.3.2, chapter 417702) is authorised for the 2005 financial year. For subsequent financial years, arrangements shall be made pursuant to Article 3(2)(i) of Regional Law No 10 of 27 April 1999, as amended’, might in principle constitute State aid which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods, can this nonetheless be recognised as being compatible with Articles 87 and 88 of the EC Treaty (and now with Articles 107 and 108 TFEU) in view of the reasons that led the European Commission, by means of its Decision C(2002)4786 of 6 December 2002, to take the view, where the criteria provided for in the Community Guidelines for State aid in the agriculture sector contained in Information from the Commission 2000/C 28/02, published in the *Official Journal of the European Communities* (OJ C 28, p. 2) of 1 February 2000, are met, that similar provisions contained in Articles 11 of Sicilian Regional Law No 40/1997 and Article 7 of Regional Law No 22/1999 were compatible with Articles 87 and 88 EC?

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**Request for a preliminary ruling from the Corte suprema di cassazione (Italy) lodged on 19 February 2019 —  
Presidenza del Consiglio dei Ministri v BV**

(Case C-129/19)

(2019/C 182/19)

*Language of the case: Italian*

### Referring court

Corte suprema di cassazione