

Grounds of appeal and main arguments

First ground of appeal, alleging infringement of Article 106(2) TFEU, in so far as the General Court incorrectly held that the requirements set out in point 19 (Section 2.6) of the [European Union] framework [for State aid in the form of public service compensation (2011)] had been met, infringement of the Treaty principles on public procurement (principles of non-discrimination, equal treatment and transparency) and incorrect interpretation of Article 7(2) of Directive 97/67/EC ('the Postal Services Directive').

The methods of financing the provision of universal services applied by the Member States must be consistent with the principles of non-discrimination, transparency and equal treatment (including the choice of the provider of universal postal services by way of competition) arising from the provisions of the TFEU on internal market freedoms, and also with Article 106(2) TFEU, which is not the case in the present dispute.

Second ground of appeal, alleging infringement of Article 106(2) TFEU, in so far as the General Court incorrectly held that the requirements set out in points 14 (Section 2.2) and 60 (Section 2.10) of the [European Union] framework [for State aid in the form of public service compensation (2011)] had been met. Even supposing that the public service obligation conferred on Poczta Polska fulfils the requirements set out in the Postal Services Directive, that does not preclude the obligation to carry out a public consultation or use some other appropriate means to take into account the interests of users and service providers in order to demonstrate that the universal service requirements have been considered.

Third ground of appeal, alleging infringement of Article 106(2) TFEU, in so far as the General Court incorrectly held that the requirements set out in point 52 (Section 2.9) of the framework had been met and infringement of Article 7(1), (3) and (5) of Directive 97/67/EC. The General Court was wrong to consider that the compensation fund fulfilled the non-discrimination requirement as regards the uniform contribution rate, which amounts to a maximum of 2 % of the revenue received by the providers of universal services or equivalent services required to contribute, with the result that that rate applies in a uniform way to all market operators, which is discriminatory since the situation of the providers of universal services and that of the providers of equivalent services are not the same. The General Court was also wrong to consider that the compensation fund satisfied the principle of proportionality.

During the consultations on amending the legislation, the provisions of the compensation fund were very different from those ultimately implemented in the postal legislation, which means that it cannot be considered that the establishment of the fund was the subject of consultations. The financing conditions for the universal service do not require examination of whether the net cost incurred constitutes an unfair burden for the appointed universal service provider. The automatic link between the financing of the service and an account loss resulting from providing the universal service cannot be regarded as satisfying the requirements of the Postal Services Directive.

Fourth ground of appeal, alleging infringement of Article 7(1) of the Postal Services Directive, in so far as the General Court accepted the financing of the cost of the universal service by a certain number of exclusive and special rights conferred on Poczta Polska. Under Article 7(1) of the Postal Services Directive, Member States are not to grant or maintain in force exclusive or special rights for the establishment and provision of postal services. The exclusive and special rights conferred on Poczta Polska, contrary to the view of the General Court, are manifestly not included in the list of exceptions laid down in the Postal Services Directive.

Appeal brought on 5 June 2019 by Inpost S.A. against the judgment of the General Court delivered on 19 March 2019 in Joined Cases T-282/16 and T-283/16 Inpost Paczkomaty and Inpost v Commission

(Case C-432/19 P)

(2019/C 328/08)

Language of the case: Polish

Parties

Appellant: Inpost S.A. (represented by: W. Knopkiewicz, radca prawny)

Other parties to the proceedings: European Commission, Republic of Poland

Form of order sought

The appellant claims that the Court should:

- set aside the judgment of the General Court;
- annul the decision;

— order the Commission to pay the costs of the present proceedings and of the proceedings before the General Court.

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The methods of financing the provision of universal services applied by the Member States must be consistent with the principles of non-discrimination, transparency and equal treatment (including the choice of the provider of universal postal services by way of competition) arising from the provisions of the TFEU on internal market freedoms, and also with Article 106(2) TFEU, which is not the case in the present dispute.

Second ground of appeal, alleging infringement of Article 106(2) TFEU, in so far as the General Court incorrectly held that the requirements set out in points 14 (Section 2.2) and 60 (Section 2.10) of the [European Union] framework [for State aid in the form of public service compensation (2011)] had been met. Even supposing that the public service obligation conferred on Poczta Polska fulfils the requirements set out in the Postal Services Directive, that does not preclude the obligation to carry out a public consultation or use some other appropriate means to take into account the interests of users and service providers in order to demonstrate that the universal service requirements have been considered.

Third ground of appeal, alleging infringement of Article 106(2) TFEU, in so far as the General Court incorrectly held that the requirements set out in point 52 (Section 2.9) of the framework had been met and infringement of Article 7(1), (3) and (5) of Directive 97/67/EC. The General Court was wrong to consider that the compensation fund fulfilled the non-discrimination requirement as regards the uniform contribution rate, which amounts to a maximum of 2 % of the revenue received by the providers of universal services or equivalent services required to contribute, with the result that that rate applies in a uniform way to all market operators, which is discriminatory since the situation of the providers of universal services and that of the providers of equivalent services are not the same. The General Court was also wrong to consider that the compensation fund satisfied the principle of proportionality.

During the consultations on amending the legislation, the provisions of the compensation fund were very different from those ultimately implemented in the postal legislation, which means that it cannot be considered that the establishment of the fund was the subject of consultations. The financing conditions for the universal service do not require examination of whether the net cost incurred constitutes an unfair burden for the appointed universal service provider. The automatic link between the financing of the service and an account loss resulting from providing the universal service cannot be regarded as satisfying the requirements of the Postal Services Directive.

Fourth ground of appeal, alleging infringement of Article 7(1) of the Postal Services Directive, in so far as the General Court accepted the financing of the cost of the universal service by a certain number of exclusive and special rights conferred on Poczta Polska. Under Article 7(1) of the Postal Services Directive, Member States are not to grant or maintain in force exclusive or special rights for the establishment and provision of postal services. The exclusive and special rights conferred on Poczta Polska, contrary to the view of the General Court, are manifestly not included in the list of exceptions laid down in the Postal Services Directive.

Request for a preliminary ruling from the Corte suprema di cassazione (Italy) lodged on 5 June 2019 — Poste Italiane SpA v Riscossione Sicilia SpA — tax-collection agency for the province of Palermo and the other provinces of Sicily

(Case C-434/19)

(2019/C 328/09)

Language of the case: Italian

Referring court

Corte suprema di cassazione