

Parties to the main proceedings

Appellant in the appeal on a point of law: Thelen Technopark Berlin GmbH

Respondent in the appeal on a point of law: MN

Operative part of the judgment

EU law must be interpreted as meaning that a national court, when hearing a dispute which is exclusively between private individuals, is not required, solely on the basis of EU law, to disapply a piece of national legislation which, in breach of Article 15(1), (2)(g) and (3) of Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market, sets minimum rates for fees for services provided by architects and engineers and which renders invalid agreements derogating from that legislation, without prejudice, however, to, first, the possibility for that court to disapply that legislation on the basis of domestic law in the context of such a dispute, and, second, the right of a party which has been harmed as a result of national law not being in conformity with EU law to claim compensation for the ensuing loss or damage sustained by that party.

⁽¹⁾ OJ C 313, 21.9.2020.

Judgment of the Court (Fifth Chamber) of 27 January 2022 (request for a preliminary ruling from the Administratīvā rajona tiesa — Latvia) — SIA ‘Zinātnes parks’ v Finanšu ministrija

(Case C-347/20) ⁽¹⁾

(Reference for a preliminary ruling — Structural Funds — European Regional Development Fund (ERDF) — Regulation (EU) No 1303/2013 — Co-financing programme — State aid — Regulation (EU) No 651/2014 — Scope — Limits — Concepts of ‘subscribed share capital’ and ‘undertaking in difficulty’ — Exclusion of undertakings in difficulty from ERDF support — Conditions for the taking effect of an increase of the subscribed share capital — Date of submission of evidence of that increase — Principles of non-discrimination and transparency)

(2022/C 119/16)

Language of the case: Latvian

Referring court

Administratīvā rajona tiesa

Parties to the main proceedings

Applicant: SIA ‘Zinātnes parks’

Defendant: Finanšu ministrija

Operative part of the judgment

1. Article 2(18)(a) of Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 [TFEU] must be interpreted as meaning that, in order to determine whether a company is ‘in difficulty’ within the meaning of that provision, the expression ‘subscribed share capital’ must be understood as referring to all contributions which current or future members or shareholders of a company have made or have irrevocably undertaken to make.

2. Article 3(3) of Regulation (EU) No 1301/2013 of the European Parliament and of the Council of 17 December 2013 on the European Regional Development Fund and on specific provisions concerning the Investment for growth and jobs goal and repealing Regulation (EC) No 1080/2006 must be interpreted as meaning that, in order to determine whether a project applicant is to be regarded as not being 'in difficulty' within the meaning of Article 2(18) of Regulation No 651/2014, the competent managing authority must take account only of evidence which complies with the requirements laid down when the project selection procedure was drawn up, provided that those requirements comply with the principles of effectiveness and equivalence, as well as with the general principles of EU law, such as, in particular, the principles of equal treatment, transparency and proportionality.
3. Article 125(3) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006, together with the principles of non-discrimination and transparency to which that provision refers, must be interpreted as not precluding national legislation under which project applications may not be the subject of clarification after the deadline for submission of those applications. However, in accordance with the principle of equivalence, that impossibility, for project applicants, to complete their file after the deadline for submission of project applications must concern all procedures which may, where appropriate, be regarded as comparable with regard to their purpose, cause of action and essential characteristics to that laid down for receipt of support from the European Regional Development Fund.

(¹) OJ C 339, 12.10.2020.

Judgment of the Court (Third Chamber) of 20 January 2022 (request for a preliminary ruling from the Verwaltungsgericht Wien — Austria) — ZK

(Case C-432/20) (¹)

(Reference for a preliminary ruling — Area of freedom, security and justice — Immigration policy — Directive 2003/109/EC — Article 9(1)(c) — Loss of the status of long-term resident third-country national — Absence from the territory of the European Union for a period of 12 consecutive months — Interruption of that period of absence — Irregular and short-term stays in the territory of the European Union)

(2022/C 119/17)

Language of the case: German

Referring court

Verwaltungsgericht Wien

Parties to the main proceedings

Applicant: ZK

Intervener: Landeshauptmann von Wien

Operative part of the judgment

Article 9(1)(c) of Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents must be interpreted as meaning that any physical presence of a long-term resident in the territory of the European Union during a period of 12 consecutive months, even if such a presence does not exceed, during that period, a total duration of only a few days, is sufficient to prevent the loss, by that resident, of his or her right to long-term resident status under that provision.

(¹) OJ C 390, 16.11.2020.