

Defendant and respondent: Azienda Sanitaria Provinciale di Cosenza

Intervener: ANPAS — Associazione Nazionale Pubbliche Assistenze Odv

Question referred

Does Article 10(h) of Directive 2014/24/EU ⁽¹⁾ — together with recital 28 of that directive — preclude national legislation which provides that contracts for the provision of emergency ambulance transport services may be directly awarded, on a preferential basis, solely to voluntary organisations — provided that they have been registered for at least six months in the national third sector register, belong to a network of associations and are accredited under the relevant sectoral regional legislation (if any) and on the condition that such an award ensures that the service can be provided within a framework of effective contributions to social goals, which pursues objectives of solidarity, in an economically efficient and appropriate manner and in accordance with the principles of transparency and non-discrimination — to the exclusion of other non-profit organisations, and more specifically social cooperatives, such as non-profit-making social enterprises, including social cooperatives which offer rebates to their members in relation to activities of general interest, within the meaning of Article 3(2a) of Legislative Decree No 112/2017?

⁽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 Sąd Okręgowy w Warszawie (Poland) lodged on 14 April 2021 — TOYA Sp. z o.o., Polska Izba Informatyki i Telekomunikacji v Prezes Urzędu Komunikacji Elektronicznej

(Case C-243/21)

(2021/C 289/35)

Language of the case: Polish

Referring court

Sąd Okręgowy w Warszawie

Parties to the main proceedings

Applicants: TOYA Sp. z o.o., Polska Izba Informatyki i Telekomunikacji

Defendant: Prezes Urzędu Komunikacji Elektronicznej

Questions referred

1. Must Article 8(3) of Directive 2002/19/EC of the European Parliament and of the Council of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities, ⁽¹⁾ read in conjunction with Article 3(5) and Article 1(3) and (4) of Directive 2014/61/EU of the European Parliament and of the Council of 15 May 2014 on measures to reduce the cost of deploying high-speed electronic communications networks ⁽²⁾ be interpreted as precluding a national regulatory authority from imposing on an operator which owns physical infrastructure and is at the same time a provider of publicly available electronic communications services or networks, but has not been designated as having significant market power, the obligation to apply the conditions for access to that operator's physical infrastructure determined *ex ante* by that authority, including the rules and procedures for entering into contracts and the applicable access fees, irrespective of the existence of a dispute over access to that operator's physical infrastructure and the existence of effective competition in the market?

Alternatively (version II):

2. Must Article 67(1) and (3) read in conjunction with Article 68(2) and (3) of Directive 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code, ⁽³⁾ read in conjunction with Article 3(5) and Article 1(3) and (4) of Directive 2014/61/EU of the European Parliament and of the Council of 15 May 2014 on measures to reduce the cost of deploying high-speed electronic communications networks be interpreted as precluding a national regulatory authority from imposing on an operator which owns physical infrastructure and is at the same time a provider of publicly available electronic communications services or

networks, but has not been designated as having significant market power, the obligation to apply the conditions for access to that operator's physical infrastructure determined *ex ante* by that authority, including the rules and procedures for entering into contracts and the applicable access fees, irrespective of the existence of a dispute over access to that operator's physical infrastructure and the existence of effective competition in the market?

⁽¹⁾ OJ 2002 L 108, p. 7.

⁽²⁾ OJ 2014 L 155, p. 1.

⁽³⁾ OJ 2018 L 321, p. 36.

Request for a preliminary ruling from the Naczelny Sąd Administracyjny (Poland) lodged on 21 April 2021 — Szeł Krajowej Administracji Skarbowej v O. Fundusz Inwestycyjny Zamknięty represented by O. SA

(Case C-250/21)

(2021/C 289/36)

Language of the case: Polish

Referring court

Naczelny Sąd Administracyjny

Parties to the main proceedings

Appellant: Szeł Krajowej Administracji Skarbowej

Respondent: O. Fundusz Inwestycyjny Zamknięty represented by O. SA

Question referred

Must Article 135(1)(b) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ⁽¹⁾ be interpreted as meaning that the exemption which that provision provides for in respect of transactions concerning the granting and the negotiation of credit and the management of credit is applicable to the subparticipation agreement described in the main proceedings?

⁽¹⁾ OJ 2006 L 347, p. 1.

Request for a preliminary ruling from the Landgericht Hamburg (Germany) lodged on 22 April 2021 — TUIfly GmbH v FI, RE

(Case C-253/21)

(2021/C 289/37)

Language of the case: German

Referring court

Landgericht Hamburg

Parties to the main proceedings

Appellant: TUIfly GmbH

Respondents: FI, RE

Question referred

Must Article 5(1)(c)(iii), Article 7(1) and Article 8(3) of Regulation (EC) No 261/2004 ⁽¹⁾ be interpreted as meaning that, in the case where a flight lands at an airport of arrival other than that for which the booking was made, which is not located in the same city, town or region as the airport of arrival for which the booking was made, and the passengers are