

Questions referred

1. Must the rule set out in [the French version of] Article 153(1)(b) of Regulation (EU) No 1308/2013 of 17 December 2013, ⁽¹⁾ according to which the statutes of a producer organisation require its members to 'be members of only one producer organisation for any given product of the holding', be interpreted as applying only to producer members?
2. In order to ensure compliance with the principle set out in Article 153(2)(c) of Regulation (EU) No 1308/2013, according to which the producer members of a producer organisation must scrutinise democratically their organisation and its decisions:
 - is it necessary, in order to assess the independence of the members of the organisation, to take account exclusively of the holding of their capital by the same natural or legal person, or also of other links such as, for non-producer members, affiliation to the same union confederation, or, for producer members, the exercise of management responsibilities within such a confederation?
 - is it sufficient, in order to conclude that producer members do have control over the organisation, for those members to have a majority of the votes, or is it necessary to examine whether, in view of the distribution of votes among members who are genuinely independent, the voting share of one or more non-producer members enables them, even without a majority, to control the decisions taken by the organisation?

⁽¹⁾ Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ 2013 L 347, p. 671).

**Request for a preliminary ruling from the Consiglio di Stato (Italy) lodged on 9 March 2022 — Sad
Trasporto Locale SpA v Provincia autonoma di Bolzano**

(Case C-186/22)

(2022/C 213/42)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Applicant and appellant: Sad Trasporto Locale SpA

Defendant and respondent: Provincia autonoma di Bolzano

Questions referred

1. Must Article 1(2) of Regulation (EC) No 1370/2007 ⁽¹⁾ be interpreted as precluding the application of that regulation to the operation of national and international multimodal public passenger transport services, where, first, the public transport service is of a uniform nature for the purposes of the award and is performed by tramway, funicular railway and cableway, and second, track-based modes of transport account for more than 50 % of the service awarded in its entirety to the operator?
2. If the first question is answered in the negative, where Regulation No 1370/2007 also applies to the operation of national and international multimodal public passenger transport services, in which, first, the public transport service is of a uniform nature for the purposes of the award and is provided by tramway, funicular railway and cableway, second, track-based modes of transport account for more than 50 % of the service awarded in its entirety to the operator, must Article 5(1) and (2) of Regulation No 1370/2007 be interpreted as requiring, particularly in relation to the direct award to an internal operator of a public service contract that includes the transport of passengers by tramway, verification of the legal form of the measure awarding the service, with the effect of excluding from the scope of Article 5(2) of that regulation measures that do not take the form of services concession contracts?

3. If the second question is answered in the affirmative, must Article 5(1)(b) and the second subparagraph of Article 5(1) of Directive 2014/23/EU ⁽²⁾ be interpreted as meaning that the operating risk in exploiting those services must not be transferred to the contractor if the contract awarded: (a) is based on gross cost, with the contracting entity receiving the revenue; (b) only envisages as operating revenue for the operator a fee paid by the [contracting] entity, commensurate with the volume of services provided (and therefore excluding demand risk); (c) leaves the contracting entity with demand-side operating risk (reduction in fees due to a decline in service volumes below a predefined threshold), regulatory risk (resulting from legislative or regulatory changes and delay in the granting of authorisation and/or certification by the competent bodies), financial risk (non-payment or late payment of fees and failure to adjust fees), and risk of force majeure (resulting from an unforeseeable change in the service performance conditions); (d) transfers to the contractor supply side operating risk (changes in the costs of factors such as energy, raw materials and supplies that are beyond the operator's control), industrial relations risk (resulting from changes in staff costs under a collective agreement), management risk (resulting from an increase in operating costs due to incorrect estimates), and socio-environmental risk (resulting from operating incidents involving assets needed to provide the service)?
4. Must Articles 107(1) TFEU and 108(3) TFEU be interpreted as meaning that, in the case of a direct award of a public service contract for the transport of passengers by a competent local authority to an internal operator, public service compensation calculated on the basis of management costs that, although related to the anticipated service requirements, are, on the one hand, estimated taking into account the historical costs of the service provided by the incumbent operator, awarded a services concession which was extended for more than 10 years, and on the other hand, are based on costs or fees that relate to the previous award or at least involve standard market parameters applicable to all operators in the sector, constitutes State aid subject to prior control under Article 108(3) TFEU?

⁽¹⁾ Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70 (OJ 2007 L 315, p. 1).

⁽²⁾ Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts (OJ 2014 L 94, p. 1).

Request for a preliminary ruling from the Conseil d'État (Belgium) lodged on 11 March 2022 — ME v État belge

(Case C-191/22)

(2022/C 213/43)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Applicant: ME

Defendant: État belge

Question referred

Must Articles 7 and 24 of the Charter of Fundamental Rights of the European Union and [Article 4(1)(c)] of Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification ⁽¹⁾ and the principles of equal treatment and legal certainty be interpreted as requiring Member States to take into account the age of a child for whom family reunification is sought not at the date of the application for family reunification but at the date when the sponsor, who has been recognised as a refugee, submitted his or her application for international protection and to regard that child as a minor within the meaning of Article 4[(1)(c)] of Directive 2003/86/EC where that child was a minor at the time that the sponsor submitted his or her application for asylum but attained majority before the sponsor obtained refugee status and before the application for family reunification was lodged?

⁽¹⁾ OJ 2003 L 251, p. 12.