

## I

(Information)

## COURT OF JUSTICE

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## JUDGMENT OF THE COURT

(Sixth Chamber)

of 7 December 2000

**in Case C-94/99 (reference for a preliminary ruling from the Bundesvergabeamt (Austria): ARGE Gewässerschutz v Bundesministerium für Land- und Forstwirtschaft <sup>(1)</sup>)**

**(Public service contracts — Directive 92/50/EEC — Procedure for the award of public procurement contracts — Equal treatment of tenderers — Discrimination on grounds of nationality — Freedom to provide services)**

(2001/C 108/01)

(Language of the case: German)

(Provisional translation; the definitive translation will be published in the European Court Reports)

In Case C-94/99: reference to the Court under Article 177 of the EC Treaty (now Article 234 EC) from the Bundesvergabeamt (Federal Procurement Office), Austria for a preliminary ruling in the proceedings pending before that court between ARGE Gewässerschutz and Bundesministerium für Land- und Forstwirtschaft — on the interpretation of Council Directive 92/50/EC of 18 June 1992 relating to the coordination of procedures for the award of public service contracts (OJ 1992 L 209, p. 1), and of Article 59 of the EC Treaty (now, after amendment, Article 49 EC) — the Court (Sixth Chamber), composed of: C. Gulmann (Rapporteur), President of the Chamber, J.-P. Puissochet and F. Macken, Judges; P. Léger, Advocate General; H.A. Rühl, Principal Administrator, for the Registrar, has given a judgment on 7 December 2000, in which it has ruled:

1. The mere fact that the contracting authority allows bodies receiving subsidies of any kind, whether from that contracting authority or from other authorities, which enable them to submit tenders at prices appreciably lower than those of the

other, unsubsidised, tenderers, to take part in a procedure for the award of a public service contract does not amount to a breach of the principle of equal treatment laid down in Council Directive 92/50/EEC of 18 June 1992 relating to the coordination of procedures for the award of public service contracts.

2. The mere fact that a contracting authority allows such bodies to take part in a procedure for the award of a public service contract does not constitute either covert discrimination or a restriction contrary to Article 59 of the EC Treaty (now, after amendment, Article 49 EC).

<sup>(1)</sup> OJ C 160, 5.6.1999.

## ORDER OF THE COURT

of 20 October 2000

**in Case C-242/99 (reference for a preliminary ruling from the Sozialgericht Augsburg): Johann Vogler v Landwirtschaftliche Alterskasse Schwaben <sup>(1)</sup>)**

**(Article 104(3) of the Rules of Procedure — Social security — Freedom of establishment — Determination of the applicable legislation — Self-employed activities in more than one Member State — Articles 13(1) and 14a(2) of Regulation (EEC) No 1408/71 — Legislation of only one Member State applicable)**

(2001/C 108/02)

(Language of the case: German)

(Provisional translation: the definitive translation will be published in the European Court Reports)

In Case C-242/99: reference to the Court under Article 177 of the EC Treaty (now Article 234 EC) from the Sozialgericht

Augsburg (Germany) for a preliminary ruling in the proceedings pending before that court between Johann Vogler and Landwirtschaftliche Alterskasse Schwaben, on the validity and interpretation of Articles 13(1) and 14a(2) and on the interpretation of Articles 13(2)(b), 14a(3) and 14c of Regulation (EEC) No 1408/71 of the Council of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community, in the version thereof amended and updated by Council Regulation (EC) No 118/97 of 2 December 1996 (OJ 1997 L 28, p. 1), as amended by Council Regulation (EC) No 307/1999 of 8 February 1999 (OJ 1999 L 38, p. 1) — the Court, composed of: G.C. Rodríguez Iglesias, President, C. Gulmann, A. La Pergola, M. Wathelet (Rapporteur) and V. Skouris, Presidents of Chambers, D.A.O. Edward, J.-P. Puissochet, P. Jann, L. Sevón, R. Schintgen and F. Macken, Judges; G. Cosmas, Advocate General; R. Grass, Registrar, has made an order on 20 October 2000, the operative part of which is as follows:

*Consideration of the first question referred has not disclosed any factor of such a kind as to affect the validity of Article 13(1) in conjunction with Article 14a(2) of Regulation (EEC) No 1408/71 of the Council of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community, in the version thereof amended and updated by Council Regulation (EC) No 118/97 of 2 December 1996, as amended by Council Regulation (EC) No 307/1999 of 8 February 1999. It follows from those provisions that a person who simultaneously operates, in a self-employed capacity, an agricultural undertaking in Germany and, in the same capacity, a hotel in Austria, where he resides, is subject only to the social security legislation of the latter State.*

(<sup>1</sup>) OJ C 246, 28.8.1999.

**Reference for a preliminary ruling by the Tribunale Amministrativo Regionale per il Lazio by judgments of that court of 6 July 2000 in Case C-480/00 Azienda Agricola Ettore Ribaldi v Azienda di Stato per gli Interventi nel Mercato Agricolo (AIMA), the other party to the proceedings being Caseificio Nazionale Novarese s.c.a.r.l.; Case C-490/00 Cesare and Michele Filippi s.s. v AIMA and the Ministry of the Treasury, the Budget and Planning; Case C-491/00 Cooperativa Latte Associati della Lessinia a.r.l. v AIMA and the Ministry of the Treasury, the Budget and Planning**

**(Cases C-480/00, C-490/00 and C-491/00)**

(2001/C 108/03)

Tribunale Amministrativo Regionale per il Lazio, received at the Court Registry on 29 December 2000, for a preliminary ruling in Case C-480/00 Azienda Agricola Ettore Ribaldi v Azienda di Stato per gli Interventi nel Mercato Agricolo (AIMA), the other party to the proceedings being Caseificio Nazionale Novarese s.c.a.r.l.; Case C-490/00 Cesare and Michele Filippi s.s. v AIMA and the Ministry of the Treasury, the Budget and Planning; Case C-491/00 Cooperativa Latte Associati della Lessinia a.r.l. v AIMA and the Ministry of the Treasury, the Budget and Planning on the following questions:

(1) May the provisions contained in Articles 1 and 4 of Council Regulation (EEC) No 3950/92 (<sup>1</sup>) of 28 December 1992 and Articles 3 and 4 of Commission Regulation (EEC) No 534/93 (<sup>2</sup>) of 9 March 1993 be interpreted as meaning that it is possible, in cases of administrative or judicial challenge to the relevant measures, to derogate from the time-limits prescribed for the allocation of quotas and the operation of adjustments and levies?

If not:

(2) Are the provisions contained in Articles 1 and 4 of Council Regulation (EEC) No 3950/92 of 28 December 1992 and Articles 3 and 4 of Commission Regulation (EEC) No 534/93 of 9 March 1993 valid, in the light of Article 33 (ex 39) of the Treaty, in so far as they do not provide that derogations may be made from the periods prescribed by those provisions for the allocation of individual reference quantities, for adjustments and levies in cases of administrative or judicial challenge to those provisions?

(3) May Regulations No 3950/92 and 536/93 be interpreted as meaning that the application of the system introduced by that legislation excludes the allocation and official notification of individual reference quantities for producers or does it exclude the official redistribution among its producers by the Member State of the global quantity which that State is guaranteed?

(4) May Articles 3 and 4 of Regulation (EC) No 3950/92 be interpreted as meaning that no official notification of individual reference quantities need be given to producers, or does the allocation of an individual reference quantity exclude individual notification to those producers?

(5) May Article 2(1) of Regulation (EC) No 3950/92 and Article 3(3) of Regulation (EC) No 563/93 be interpreted as leaving the Member States free to determine privileged categories of producers who must be compensated in priority to others?

(<sup>1</sup>) OJ L 405, 31.12.1992, p. 1.

(<sup>2</sup>) OJ L 57, 10.3.1993, p. 12.