

the legislation of the Member State of residence for the award of such benefits are not or are no longer satisfied and where the entitlement of the pensioner or of the orphans claiming under the deceased worker is not acquired, in the other Member State, solely under the legislation of that State. None the less, in such a situation, the competent institution of the Member State other than that of residence may be required to award the benefit at issue under a social-security convention entered into by the two Member States concerned and incorporated in their national law prior to the entry into force of the Regulation, where the persons concerned have an established right to continued application of that convention after the entry into force of the Regulation.

(¹) OJ C 122 of 29.4.2000.

JUDGMENT OF THE COURT

(Sixth Chamber)

of 17 September 2002

in Case C-498/99 (Reference for a preliminary ruling from the VAT and Duties Tribunal, Manchester): Town & County Factors Ltd v Commissioners of Customs and Excise (¹)

(Sixth VAT Directive — Scope — Competition whose organiser binds himself in honour only — Taxable amount)

(2002/C 274/05)

(Language of the case: English)

In Case C-498/99: Reference to the Court under Article 234 EC by the VAT and Duties Tribunal, Manchester (United Kingdom), for a preliminary ruling in the proceedings pending before that tribunal between Town & County Factors Ltd and Commissioners of Customs and Excise, on the interpretation of Articles 2(1), 6(1) and 11A(1) of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (OJ 1977 L 145, p. 1), the Court (Sixth Chamber),

composed of: N. Colneric, President of the Second Chamber, acting for the President of the Sixth Chamber, C. Gulmann, J.-P. Puissechot, R. Schintgen (Rapporteur) and V. Skouris, Judges; C. Stix-Hackl, Advocate General; L. Hewlett, Administrator, Registrar, has given a judgment on 17 September 2002, in which it has ruled:

1. Article 2(1) of the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment must be interpreted as meaning that a supply of services which is effected for consideration but is not based on enforceable obligations, because it has been agreed that the provider is bound in honour only to provide the services, constitutes a transaction subject to value added tax.
2. Article 11A(1)(a) of the Sixth Directive 77/388 must be interpreted as meaning that the full amount of the entry fees received by the organiser of a competition constitutes the taxable amount for that competition where the organiser has that amount freely at his disposal.

(¹) OJ C 47 of 19.2.2000.

JUDGMENT OF THE COURT

of 17 September 2002

in Case C-513/99 (Reference for a preliminary ruling from the Korkein hallinto-oikeus): Concordia Bus Finland Oy Ab v Helsingin kaupunki, HKL-Bussiliikenne (¹)

(Public service contracts in the transport sector — Directives 92/50/EEC and 93/38/EEC — Contracting municipality which organises bus transport services and an economically independent entity of which participates in the tender procedure as a tenderer — Taking into account of criteria relating to the protection of the environment to determine the economically most advantageous tender — Whether permissible when the municipal entity which is tendering meets those criteria more easily)

(2002/C 274/06)

(Language of the case: Finnish)

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

In Case C-513/99: Reference to the Court under Article 234 EC by the Korkein hallinto-oikeus (Finland) for a preliminary

ruling in the proceedings pending before that court between Concordia Bus Finland Oy Ab, formerly Stagecoach Finland Oy Ab, and Helsingin kaupunki, HKL-Bussiliikenne, on the interpretation of Articles 2(1)(a), (2)(c) and (4) and 34(1) of Council Directive 93/38/EEC of 14 June 1993 coordinating the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors (OJ 1993 L 199, p. 84), as amended by the Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden and the adjustments to the Treaties on which the European Union is founded (OJ 1994 C 241, p. 21, and OJ 1995 L 1, p. 1), and Article 36(1) of Council Directive 92/50/EEC of 18 June 1992 relating to the coordination of procedures for the award of public service contracts (OJ 1992 L 209, p. 1), the Court, composed of: G.C. Rodríguez Iglesias, President, P. Jann and F. Macken (Presidents of Chambers), C. Gulmann, D.A.O. Edward, A. La Pergola, M. Wathelet, R. Schintgen and V. Skouris (Rapporteur), Judges; J. Mischo, Advocate General; H. von Holstein, Deputy Registrar, has given a judgment on 17 September 2002, in which it has ruled:

1. Article 36(1)(a) of Council Directive 92/50/EEC of 18 June 1992 relating to the coordination of procedures for the award of public service contracts must be interpreted as meaning that where, in the context of a public contract for the provision of urban bus transport services, the contracting authority decides to award a contract to the tenderer who submits the economically most advantageous tender, it may take into consideration ecological criteria such as the level of nitrogen oxide emissions or the noise level of the buses, provided that they are linked to the subject-matter of the contract, do not confer an unrestricted freedom of choice on the authority, are expressly mentioned in the contract documents or the tender notice, and comply with all the fundamental principles of Community law, in particular the principle of non-discrimination.
2. The principle of equal treatment does not preclude the taking into consideration of criteria connected with protection of the environment, such as those at issue in the main proceedings, solely because the contracting entity's own transport undertaking is one of the few undertakings able to offer a bus fleet satisfying those criteria.
3. The answer to the second and third questions would not be different if the procedure for the award of the public contract at issue in the main proceedings fell within the scope of Council Directive 93/38/EEC of 14 June 1993 coordinating the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors.

(¹) OJ C 102 of 8.4.2000.

JUDGMENT OF THE COURT

of 24 September 2002

in Joined Cases C-74/00 P and C-75/00 P: Falck SpA, Acciaierie di Bolzano SpA, v Commission of the European Communities (¹)

(State aid — ECSC scheme — Rights of the recipient of aid — Scope: no need for trade and competition to be affected — Applicability of different State aid codes over time — Rate of interest to be applied for the repayment of incompatible aid)

(2002/C 274/07)

(Language of the case: Italian)

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

In Joined Cases C-74/00 P and C-75/00 P: Falck SpA, established in Milan (Italy), (lawyers: G. Macrì, M. Condinanzi and F. Colussi) Acciaierie di Bolzano SpA, established in Bolzano (Italy) (lawyer: B. Nascimbene) — appeal against the judgment of the Court of First Instance of the European Communities (Fifth Chamber, Extended Composition) of 16 December 1999 in Case T-158/96 Acciaierie di Bolzano v Commission [1999] ECR II-3927, the other parties to the proceedings being Commission of the European Communities (Agents: V. di Bucci and K.-D. Borchardt) and Italian Republic (Agent: U. Leanza, assisted by D. Del Gaizo), with an address for service in Luxembourg, the Court, composed of: G.C. Rodríguez Iglesias, President, P. Jann, F. Macken, N. Colneric and S. von Bahr (Presidents of Chambers), D.A.O. Edward, A. La Pergola, J.-P. Puissechet (Rapporteur), M. Wathelet, V. Skouris and J.N. Cunha Rodrigues, Judges; S. Alber, Advocate General; L. Hewlett, Administrator, for the Registrar, gave a judgment on 24 September 2002 in which it:

1. Sets aside the judgment of the Court of First Instance of 16 December 1999 in Case T-158/96 Acciaierie di Bolzano v Commission in so far as the Commission's tardiness in requiring repayment entailed an infringement of the principle of legal certainty;
2. Dismisses the remainder of the appeals;
3. Dismisses the action for annulment brought by Acciaierie di Bolzano SpA before the Court of First Instance;