

Reference for a preliminary ruling from the Corte Suprema di Cassazione (Italy) lodged on 25 February 2008 — Amministrazione delle Finanze, Agenzia delle Entrate v Paint Graphos Scarl

(Case C-78/08)

(2008/C 116/19)

Language of the case: Italian

Referring court

The Corte Suprema di Cassazione

Parties to the main proceedings

Appellants: Amministrazione delle Finanze, Agenzia delle Entrate

Respondent: Paint Graphos Scarl

Questions referred

1. Are the tax relief measures for cooperative societies, pursuant to Articles 10, 11, 12, 13 and 14 of Presidential Decree No 601 of 1973, compatible with the rules on competition and, in particular, are they classifiable as state aid within the meaning of Article 87 EC, especially given that the system of monitoring and for the prevention of abuse provided for under Legislative Decree No 1577 of 1947 is inadequate?
2. In particular, for the purposes of determining whether the tax relief measures at issue are classifiable as state aid, can those measures be regarded as proportionate in relation to the objectives of cooperative undertakings; can the decision on proportionality take into consideration not only the individual measure but also the advantage conferred by the measures as a whole, with the resulting distortion of competition?
3. For the purposes of the answer to the preceding questions, taking account of the fact that the system of monitoring has been seriously and further undermined by the reform of company law, above all in relation to cooperatives that are predominantly rather than fully mutual, under Law No 311 of 2004, and regardless of whether the tax relief measures in question can be classified as state aid, can the use of the legal form of a cooperative society, even in cases not involving fraud or deception, be regarded as an abuse of law, where that form is used solely or predominantly in order to achieve a tax saving?

Reference for a preliminary ruling from the Corte Suprema di Cassazione (Italy) lodged on 25 February 2008 — Adige Carni Scrl, in liquidation v Ministero dell' Economia e delle Finanze, Agenzia delle Entrate

(Case C-79/08)

(2008/C 116/20)

Language of the case: Italian

Referring court

The Corte Suprema di Cassazione

Parties to the main proceedings

Appellant: Adige Carni Scrl, in liquidation

Respondents: Ministero dell' Economia e delle Finanze, Agenzia delle Entrate

Questions referred

1. Are the tax relief measures for cooperative societies, pursuant to Articles 10, 11, 12, 13 and 14 of Presidential Decree No 601 of 1973, compatible with the rules on competition and, in particular, are they classifiable as state aid within the meaning of Article 87 EC, especially given that the system of monitoring and for the prevention of abuse provided for under Legislative Decree No 1577 of 1947 is inadequate?
2. In particular, for the purposes of determining whether the tax relief measures at issue are classifiable as state aid, can those measures be regarded as proportionate in relation to the objectives of cooperative undertakings; can the decision on proportionality take into consideration not only the individual measure but also the advantage conferred by the measures as a whole, with the resulting distortion of competition?
3. For the purposes of the answer to the preceding questions, taking account of the fact that the system of monitoring has been seriously and further undermined by the reform of company law, above all in relation to cooperatives that are predominantly rather than fully mutual, under Law No 311 of 2004, and regardless of whether the tax relief measures in question can be classified as state aid, can the use of the legal form of a cooperative society, even in cases not involving fraud or deception, be regarded as an abuse of law, where that form is used solely or predominantly in order to achieve a tax saving?