

**Request for a preliminary ruling from the Tribunal Supremo (Spain) lodged on 31 July 2015 —
Xabier Ormaetxea Garai and Bernardo Lorenzo Almendros v Administración del Estado**

(Case C-424/15)

(2015/C 363/26)

Language of the case: Spanish

Referring court

Tribunal Supremo

Parties to the main proceedings

Applicants: Xabier Ormaetxea Garai and Bernardo Lorenzo Almendros

Defendant: Administración del Estado

Questions referred

1. Is Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002⁽¹⁾ on a common regulatory framework for electronic communications networks and services to be interpreted to the effect that, from the perspective of the effective protection of the public interest for which the relevant national regulatory body is responsible, the creation by the national legislature of a regulatory and supervisory body of an unspecialised institutional model, which merges into a single body the pre-existing supervisory bodies in the energy, telecommunications and competition fields, may be considered compatible with the directive?
2. Must the conditions of 'independence' of national regulatory authorities for electronic communications networks and services, referred to in Article 3(2) and (3a) of Directive 2002/21/EC, as amended by Directive 2009/140/EC⁽²⁾, be the same as those required for national supervisory authorities for data protection under Article 28 of Directive 95/46/EC⁽³⁾?
3. Is the decision in the judgment in *Commission v Hungary*, C-288/12⁽⁴⁾, applicable to a situation in which the officers of a national telecommunications regulatory authority are dismissed before their term of office has expired owing to the requirements of the new legal framework which creates a supervisory body grouping together various national regulatory authorities for regulated sectors? May that early dismissal, due only to the entry into force of a new national law and not to an unforeseen change in the circumstances of the office-holders as previously established in national law, be considered compatible with the provisions of Article 3 (3a) of Directive 2002/21/EC?

⁽¹⁾ OJ 2002 L 108, p. 33.

⁽²⁾ OJ 2009 L 337, p. 37.

⁽³⁾ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ 1995 L 281, p. 31).

⁽⁴⁾ EU:C:2014:237.

**Request for a preliminary ruling from the Juzgado Mercantil No 3 de Barcelona (Spain) lodged on
7 August 2015 — Asociación Profesional Élite Taxi v Uber Systems Spain, S.L.**

(Case C-434/15)

(2015/C 363/27)

Language of the case: Spanish

Referring court

Juzgado Mercantil No 3 de Barcelona

Parties to the main proceedings

Applicant: Asociación Profesional Élite Taxi

Defendant: Uber Systems Spain, S.L.

Questions referred

1. Inasmuch as Article 2(2)(d) of Directive 2006/123/EC⁽¹⁾ of the European Parliament and of the Council of 12 December 2006 on services in the internal market excludes transport activities from the scope of that directive, must the activity carried out for profit by the defendant, consisting of acting as an intermediary between the owner of a vehicle and a person who needs to make a journey within a city, by managing the IT resources — in the words of the defendant, ‘intelligent telephone and technological platform’ interface and software application — which enable them to connect with one another, be considered to be merely a transport service or must it be considered to be an electronic intermediary service or an information society service, as defined by Article 1(2) of Directive 98/34/EC⁽²⁾ of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society services?
2. Within the identification of the legal nature of that activity, can it be considered to be ... in part an information society service, and, if so, ought the electronic intermediary service to benefit from the principle of freedom to provide services as guaranteed in the Community legislation — Article 56 TFEU and Directives 2006/123/EC and ... 2000/31/EC⁽³⁾?
3. If the service provided by UBER SYSTEMS SPAIN, S.L. were not to be considered to be a transport service and were therefore considered to fall within the cases covered by Directive 2006/123, the question arising is whether Article 15 of the Law on Unfair competition — concerning the infringement of rules governing competitive activity — is contrary to Directive 2006/123, specifically Article 9 on freedom of establishment and authorisation schemes, when the reference to national laws or legal provisions is made without taking into account the fact that the scheme for obtaining licences, authorisations and permits may not be in any way restrictive or disproportionate, that is, it may not unreasonably impede the principle of freedom of establishment.
4. If it is confirmed that Directive 2000/31/EC is applicable to the service provided by UBER SYSTEMS SPAIN, S.L., the question arising is whether restrictions in one Member State [regarding] the freedom to provide the electronic intermediary service from another Member State, in the form of making the service subject to an authorisation or a licence, or in the form of an injunction prohibiting provision of the electronic intermediary service based on the application of the national legislation on unfair competition, are valid measures that constitute derogations from paragraph 2 in accordance with Article 3(4) of Directive 2000/31/EC.

⁽¹⁾ OJ 2006 L 376, p. 36.

⁽²⁾ OJ 1998 L 204, p. 37.

⁽³⁾ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (‘Directive on electronic commerce’) (OJ 2000 L 178, p. 1).

Request for a preliminary ruling from the Finanzgericht Hamburg (Germany) lodged on 10 August 2015 — GROFA GmbH v Hauptzollamt Hannover

(Case C-435/15)

(2015/C 363/28)

Language of the case: German

Referring court

Finanzgericht Hamburg