

Operative part of the judgment

Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts, in particular Article 45(2)(c), (d) and (g) of that directive, and the principles of equal treatment and proportionality, must be interpreted as not precluding national legislation which allows the contracting authority:

- to take into consideration, in accordance with the conditions it has laid down, a criminal conviction of the director of a tendering company, even if the conviction is not yet final, for an offence concerning the professional conduct of that company where the director ceased to perform his duties in the year preceding the publication of the tender notice, and
- to exclude that company from taking part in the tendering procedure at issue, on the ground that, by failing to declare the conviction which was not yet final, it had not fully and effectively dissociated itself from that director's activities.

⁽¹⁾ OJ C 232, 27.6.2016.

Judgment of the Court (Fifth Chamber) of 20 December 2017 (request for a preliminary ruling from the Conseil d'État — France) — Eni SpA, Eni Gas & Power France SA, Union professionnelle des industries privées du gaz (Uprigaz) v Premier ministre, Ministre de l'Environnement, de l'Énergie et de la Mer

(Case C-226/16) ⁽¹⁾

(Reference for a preliminary ruling — Energy — Gas industry — Security of gas supply — Regulation (EU) No 994/2010 — Obligation of natural gas undertakings to take measures to safeguard the supply of gas to protected customers — Point 1 of the second paragraph of Article 2 — Definition of 'protected customers' — Article 8(2) — Additional obligation — Article 8(5) — Possibility for natural gas undertakings of fulfilling their obligation at regional level or at Union level — National legislation imposing on gas suppliers an additional gas storage obligation, the scope of which includes customers who are not protected customers within the meaning of Regulation No 994/2010 — Obligation to be fulfilled, as regards 80 % of the gas stored, on the territory of the Member State concerned)

(2018/C 072/12)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Applicants: Eni SpA, Eni Gas & Power France SA, Union professionnelle des industries privées du gaz (Uprigaz)

Defendants: Premier ministre, Ministre de l'Environnement, de l'Énergie et de la Mer

Intervening parties: Storengy, Total Infrastructures Gaz France (TIGF)

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1. Article 8(2) of Regulation (EU) No 994/2010 of the European Parliament and of the Council of 20 October 2010 concerning measures to safeguard security of gas supply and repealing Council Directive 2004/67/EC must be interpreted as not precluding national legislation, such as that in the main proceedings, that imposes on natural gas suppliers a gas storage obligation, the scope of which includes customers who are not among the protected customers listed in point 1 of the second paragraph of Article 2 of that regulation, provided that the conditions set out in Article 8(2) of the regulation are complied with, a matter which it is for the referring court to ascertain.

2. Article 8(5) of Regulation No 994/2010 must be interpreted as precluding national legislation that requires natural gas suppliers to comply with their obligations to hold gas stocks, in order to guarantee security of supply in the event of crisis, necessarily and exclusively through infrastructure located within the territory of the Member State. In the present case, it is however for the referring court to ascertain whether the power which the competent authority has under the national legislation to take account of the 'other regulatory instruments' available to the suppliers concerned ensures that it is actually possible for them to meet their obligations at regional level or at European Union level.

⁽¹⁾ OJ C 251, 11.7.2016.

Judgment of the Court (First Chamber) of 20 December 2017 (request for a preliminary ruling from the Københavns Byret — Denmark) — Criminal proceedings against Bent Falbert, Poul Madsen, JP/Politikens Hus A/S

(Case C-255/16) ⁽¹⁾

(References for a preliminary ruling — Information procedure in the field of technical rules and regulations — National legislation clarifying or introducing a prohibition on unauthorised offering of gaming, lotteries and betting and introducing a prohibition on unauthorised offering of advertising for gaming, lotteries and betting)

(2018/C 072/13)

Language of the case: Danish

Referring court

Københavns Byret

Party/parties in the main proceedings

Bent Falbert, Poul Madsen, JP/Politikens Hus A/S

Operative part of the judgment

Article 1 of Directive 98/34/EC 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, as amended by Directive 98/48/EC of the European Parliament and of the Council of 20 July 1998, must be interpreted as meaning that a national provision such as that at issue in the main proceedings, which provides for criminal sanctions where an unauthorised offer is made of gaming, lotteries or betting on the national territory, does not constitute a technical regulation within the meaning of that provision, subject to the notification obligation under Article 8(1) of that directive. However, a national provision such as that at issue in the main proceedings, which provides for sanctions in the event of advertising for unauthorised gaming, lotteries or betting, does constitute a technical regulation within the meaning of that provision, subject to the notification obligation under Article 8(1) of that directive, as it is clear from the travaux préparatoires for that provision of national law that its object and purpose was to extend a pre-existing prohibition on advertising to cover online gaming services, which it is for the national court to determine.

⁽¹⁾ OJ C 251, 11.7.2016.

Judgment of the Court (Fourth Chamber) of 20 December 2017 — Binca Seafoods GmbH v European Commission

(Case C-268/16 P) ⁽¹⁾

(Appeal — Regulation (EC) No 834/2007 — Production and labelling of organic products — Regulation (EC) No 889/2008 — Implementing Regulation (EU) No 1358/2014 — Interest in bringing proceedings — Notion of 'personal benefit')

(2018/C 072/14)

Language of the case: German

Parties

Appellant: Binca Seafoods GmbH (represented by: H. Schmidt, Rechtsanwalt)