

— order the Italian Republic to pay the costs.

Pleas in law and main arguments

The period for transposition of the directive expired on 30 July 2002.

(¹) OJ 1998 L 213, p. 13.

Reference for a preliminary ruling by the Tribunale di Bergamo by order of that Court of 3 August 2003 in the case brought by Azienda agricola Albergati Giovanni Angelo against Agenzia Erogazioni in agricoltura 'AGEA' and Coop. Latte 2005 S.C.A.R.L.

(Case C-457/03)

(2004/C 7/37)

Reference has been made to the Court of Justice of the European Communities by order of the Tribunale di Bergamo (Bergamo District Court) of 3 August 2003, received at the Court Registry on 29 October 2003, for a preliminary ruling in the case brought by Azienda agricola Albergati Giovanni Angelo against Agenzia Erogazioni in agricoltura 'AGEA' and Coop. Latte 2005 S.C.A.R.L. on the following question:

Must Article 1 of Regulation (EEC) No 856/84 (¹) of 31 March 1984 and Articles 1 to 4 of Regulation No 3950/92 (²) of 28 December 1992 be interpreted as meaning that the additional levy on milk and milk products is in the nature of an administrative penalty with the result that producers are liable to pay it only where quantities allocated have been exceeded by them intentionally or as a result of negligence?

(¹) OJ L 90 of 01.04.1984, p. 10.

(²) OJ L 405 of 31.12.1992, p. 1.

Reference for a preliminary ruling by the Verwaltungsgericht, Autonome Sektion für die Provinz Bozen by order of that Court of 27 September 2003 in the case of Parking Brixen G.m.b.H against Municipality of Brixen/Bressanone and Stadtwerke Brixen A.G.

(Case C-458/03)

(2004/C 7/38)

Reference has been made to the Court of Justice of the European Communities by order of the Verwaltungsgericht, Autonome Sektion für die Provinz Bozen (Administrative Court, Autonomous Division for the Province of Bolzano) of 27 September 2003, received at the Court Registry on 30 October 2003, for a preliminary ruling in the case of Parking Brixen G.m.b.H against Municipality of Brixen/Bressanone and Stadtwerke Brixen A.G. on the following questions:

1. Does the award of the management of the public pay car parks in question concern a public service contract within the meaning of Directive 92/50/EEC (¹) or a public service concession contract to which the competition rules of the EC, in particular the obligation to ensure equal treatment and transparency, must be applied?
2. If that award does concern a service concession contract relating to the management of a local public service, is the award of the management of public pay car parks which, under Article 44(6)(b) of Regional Law No 1 of 4 January 1993, as amended by Article 10 of Regional Law No 10 of 23 January 1998 and under Article 88(6)(a) and (b) of the consolidated text of the provisions concerning local government, can be effected without a public invitation to tender, compatible with Community law, in particular with the principles of freedom to provide services and freedom of competition, the prohibition of discrimination, and the resultant obligations to ensure equal treatment, transparency and proportionality, where a public limited company is involved which was set up pursuant to Article 115 of Legislative Decree No 267/2000 by the conversion of a special undertaking of a municipality, whose share capital at the time of the award was held 100 % by the municipality itself but whose administrative board enjoys all extensive powers of routine administration up to a value of EURO 5 000 000,00 per transaction?

(¹) OJ L 209 [1992], p. 1.