



Parliamentary questions

103k 23k

6 July 2018

P-002219/2018(ASW)

Joint answer given by Ms Bieńkowska on behalf of the Commission
Written questions: E-002224/18 , E-002235/18 , P-002219/18

Question references: E-002224/2018, P-002219/2018, E-002235/2018

The Court of Justice of the EU has the sole jurisdiction to rule on the validity and the interpretation of acts of EC law. In its judgment of 14 July 2016⁽¹⁾, the Court confirmed that beach concessions⁽²⁾ are authorisations within the meaning of Directive 2006/123/EC, since they entail an authorisation to exercise an economic activity on State-owned land⁽³⁾.

They therefore fall under the relevant provisions of EC law, including Article 12 of that directive, where scarcity of the resource at stake in the concerned municipal area is ascertained, and in any case Article 49 of the Treaty on the Functioning of the European Union, where a certain cross-border interest exists⁽⁴⁾.

(1) Joined Cases C-458/14 and C-67/15, published in Digital reports (Court Reports — general) ECLI:EU:C:2016:558.

(2) The authorisation scheme covering the administrative procedure for granting concessions to exploit State-owned maritime and lakeside property for tourist and leisure-oriented business activities, which must be obtained by the service providers in order to be able to exercise their economic activities, see Joined Cases C-458/14 and C-67/15, in particular paragraphs 39 to 41.

(3) Joined Cases C-458/14 and C-67/15, in particular paragraph 41, where the Court concluded that those concessions may therefore be characterised as 'authorisations' within the meaning of the provisions of Directive 2006/123 in so far as they constitute formal decisions, irrespective of their characterisation in national law, which must be obtained by the service providers from the competent national authorities in order to be able to exercise their economic activities.

(4) Joined Cases C-458/14 and C-67/15, in particular paragraph 41 with regard to Article 12 of the Services Directive, and paragraph 65 as regards Article 49 TFEU.

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Parliamentary questions

20 April 2018

Question for written answer P-002219-18
to the Commission
Rule 130
Angelo Ciocca (ENF)

5k 18k

P-002219-18

► Subject: Application of the Bolkestein Directive to beach concessions

Answer in writing

The former European Commissioner responsible for the internal market, taxation, and customs union, Frits Bolkestein, a signatory to the directive that bears his name, has said of that directive that it should not be applied to beach concessions, since these constitute goods and not services.

This statement, which was made within the last few days at a conference in Italy, is at odds with a 2016 ruling in which the Court of Justice took the view that concessions to carry on tourist and leisure business on State-owned sea and lakeside land, if renewed automatically, make it impossible to select potential candidates in an impartial and transparent way and to that extent are contrary to the directive.

The EU Services Directive entered into force in 2006 and its transposition in Italy has repeatedly been delayed, not least because of the problems regarding the 30 000 existing concessions, which mainly affect the operations of small and medium-sized enterprises.

In the light of the foregoing, can the Commission dispel the doubt by giving a clear answer to the question whether the Bolkestein Directive is applicable to beach concessions?

Original language of question: IT

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Parliamentary questions

102k 18k

20 April 2018

E-002224-18

Question for written answer E-002224-18
to the Commission
Rule 130
Mara Bizzotto (ENF)

► **Subject: Statements made by Mr Bolkestein concerning the Services Directive and beach concessions: request for clarification by the Commission**

Answer in writing

A meeting was held on 18 April 2018 in the Italian Chamber of Deputies entitled 'The euro, Europe and the Bolkestein Directive explained by Mr Bolkestein'. The meeting was attended by commercial associations representing the Italian beach businesses sector and many Italian members of parliament.

The keynote speaker was Frederik Bolkestein, the policymaker behind Directive 2006/123/EC on services in the internal market (better known as the Bolkestein Directive).

During the meeting the former European Commissioner for the internal market said that, 'as far as I am concerned, beach concessions are not services but goods, and therefore the directive on free movement of services does not apply to beach concessions'.

Ever since the day on which this directive was transposed, Italy's 30 000 companies in the beach businesses sector, for the most part family businesses, have been calling for the beach businesses sector to be excluded from application of the Services Directive. What then is the Commission's view of this statement by the former Commissioner who drew up Directive 2006/123/EC, and what action will it take as a result?

Original language of question: IT

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Parliamentary questions

105k 18k

23 April 2018

E-002235-18

Question for written answer E-002235-18
to the Commission

Rule 130

Andrea Cozzolino (S&D) , Damiano Zoffoli (S&D) , Renata Briano (S&D) , Elena Gentile (S&D) , Mercedes Bresso (S&D) , Daniele Viotti (S&D) , Silvia Costa (S&D) , Michela Giuffrida (S&D) , Brando Benifei (S&D) , Paolo De Castro (S&D) , Isabella De Monte (S&D) , Nicola Caputo (S&D) , Pina Picierno (S&D) , Luigi Morgano (S&D) , Patrizia Toia (S&D)

► **Subject:** Clarifications regarding Directive 2006/123/EC and the seaside business sector

Answer in writing

Article 12 of Directive 2006/123/EC appears to prohibit the award of 'open-ended' concessions and automatic renewal.

The steps taken in relation to Italy since 2009 in the specific matter of beach concessions have led to a ruling by the Court of Justice (Joined Cases C-458/14 and C-67/15).

Without going into the merits of certain questions still to be resolved, the ruling called for the authorities of the Member States to find ways of safeguarding 'legitimate expectations' or of determining whether any natural resources to be used could be considered scarce; furthermore, the Court recognised concessions of State-owned property to fall into the category of 'service concessions'.

However, Frits Bolkestein has challenged this last assertion, since he does not consider beach concessions to be services, but maintains that they are goods and that the directive should therefore not be applied. That view has given rise to new legitimate expectations among the businesses involved, as it contradicts what has previously been said and established and casts doubt on the dialogue now in progress between national and European authorities.

That being the case, does not the Commission think that it should issue an official note in order both to clarify the nature of the former Commissioner's statements and interpretation and to answer the question whether, if any national legislation were to be adopted in line with that interpretation, the infringement procedure would have to be reopened?

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