



Press and Information

Court of Justice of the European Union

PRESS RELEASE No 41/14

Luxembourg, 27 March 2014

Judgment in Case C-17/13

Alpina River Cruises GmbH, Nicko Tours GmbH v Ministero delle
infrastrutture e dei trasporti — Capitaneria di Porto di Chioggia

The freedom to provide services to maritime cabotage applicable to EU shipowners who have their ships registered in a Member State governs maritime cruise services

Under the regulation on maritime cabotage¹, freedom to provide services to maritime transport within a Member State has applied, since 1 January 1993, to EU shipowners who have their ships registered in, and flying the flag of a Member State, provided that these ships comply with all conditions of national law in relation to cabotage.

Alpina River Cruises GmbH (a Swiss company) and Nicko Tours GmbH (a German company) are, respectively, the shipowner and user company of the Swiss tourist vessel 'Bellissima'. Those companies had wished to organise a cruise of approximately one week departing from Venice. They had intended to cross the Venetian lagoon to Chioggia, then cross territorial sea between Chioggia and Porto Levante before travelling up the river Po for approximately 60 kilometres and returning to Venice following the reverse itinerary. The application for authorisation to cross the stretch of sea was rejected by the port authority (Capitaneria di Porto di Chioggia) on the ground that, under Italian law, maritime cabotage was reserved for ships flying the flag of a Member State of the EU.

Alpina and Nicko Tours contested that refusal before the Veneto Regional Administrative Court (Tribunale amministrativo regionale per il Veneto), and subsequently before the Italian Council of State (Consiglio di Stato). They claimed that, according to EU law, the concept of 'maritime cabotage' applies only to services that involve true sea transport. According to Alpina and Nicko Tours, the cruise does not involve such transport for it takes place in internal waters (with the exception of the short passage through territorial sea between Chioggia and Porto Levante).

The Consiglio di Stato asked the Court of Justice whether a cruise which starts and ends, with the same passengers, in the same port of a Member State falls within the scope of EU law.

In its judgment delivered today, the Court notes that **the regulation relates only to transport services which, within a Member State (cabotage), are of a maritime nature**. Consequently, inland waterway transport services in a Member State are not governed by that regulation where they are not of a maritime nature².

The solution to the dispute depends on **whether the cruise at issue constitutes maritime cabotage**.

The Court finds that, contrary to what Alpina and Nicko Tours claim, it does not appear that the cruise at issue has a mainly non-maritime nature. In this respect, the Court finds — subject to verification by the national court — that, besides the stretch of sea between Chioggia and Porto

¹ Council Regulation (EEC) No 3577/92 of 7 December 1992 applying the principle of freedom to provide services to maritime transport within Member States (maritime cabotage) (OJ 1992 L 364, p. 7).

² By contrast, those services fall within the scope of Council Regulation (EEC) No 3921/91 of 16 December 1991 laying down the conditions under which non-resident carriers may transport goods or passengers by inland waterway within a Member State (OJ 1991 L 373, p. 1).

Levante, other sections of the itinerary, such as the areas of navigation in the Venetian lagoon and in the mouth of the river Po, form part of the Italian internal maritime waters.

The Court notes in this regard that the term 'sea' referred to by the regulation is not limited to territorial sea within the meaning of the United Nations Convention on the Law of the Sea³, but also covers internal maritime waters which are on the landward side of the baseline of the territorial sea.

Finally, the Court states that **all cruise services provided for remuneration in the maritime waters of a Member State are subject to the regulation**, irrespective of whether they start and end, with the same passengers, in the same port.

Consequently, a **maritime transport service conducted in the form of a cruise which starts and ends, with the same passengers, in the same port of a Member State is subject to the application of the principle of freedom to provide services to maritime transport within Member States (maritime cabotage).**

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of EU law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

Unofficial document for media use, not binding on the Court of Justice.

The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

Press contact: Christopher Fretwell ☎ (+352) 4303 3355

Pictures of the delivery of the judgment are available from "[Europe by Satellite](#)" ☎ (+32) 2 2964106

³ Convention signed in Montego Bay (Jamaica) on 10 December 1982, entered into force on 16 November 1994 and approved on behalf of the European Community by Council Decision 98/392/EC of 23 March 1998 (OJ 1998 L 179, p. 1).