



Press and Information

Court of Justice of the European Union

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Judgment in Case C-62/19

Star Taxi App SRL v Unitatea Administrativ Teritorială Municipiul București
prin Primar General and Consiliul General al Municipiului București

A service that puts taxi passengers directly in touch with taxi drivers by means of an electronic application constitutes an information society service where it does not form an integral part of an overall service the principal component of which is the provision of transport

Star Taxi App SRL, a company established in Bucharest (Romania), operates a smartphone application that puts taxi service users directly in touch with taxi drivers. The application makes it possible to run a search, and then displays a list of taxi drivers available for a journey. The customer is then free to choose a driver on that list. Star Taxi App does not forward bookings to taxi drivers and does not set the fare, which is paid directly to the driver at the end of the journey.

On 19 December 2017, the Consiliul General al Municipiului București (Bucharest Municipal Council) adopted Decision No 626/2017, which extended the obligation to obtain prior authorisation for the activity of ‘dispatching’ to cover operators of IT applications such as Star Taxi App. Star Taxi App was fined 4 500 Romanian lei (approximately € 929) for having infringed that legislation.

Taking the view that its activity constitutes an information society service to which the principle of the exclusion of prior authorisation provided for in the Directive on electronic commerce¹ applies, Star Taxi App brought proceedings before the Tribunalul București (Regional Court, Bucharest, Romania) seeking annulment of Decision No 626/2017.

Against that background, the Tribunalul București asks the Court of Justice whether a service that consists in putting taxi passengers directly in touch with taxi drivers by means of an electronic application constitutes an information society service. If so, it asks the Court whether legislation such as Decision No 626/2017 complies with EU law.²

By today’s judgment, the Court notes, first of all, that the service offered by Star Taxi App corresponds to the definition of ‘information society service’ in the Directive on electronic commerce, as it is provided for remuneration, at a distance, by electronic means and at the individual request of a recipient of services. In that regard, it is irrelevant that such a service is provided free of charge to the person seeking to be or being transported around the city, since it gives rise to the conclusion, between Star Taxi App as the provider of that service and each authorised taxi driver, of a contract for the provision of services and to the payment by the taxi driver of a monthly subscription.

¹ 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, pp. 1).

² Namely, specifically, Articles 1 and 5 of Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (OJ 2015 L 241, pp. 1) (‘the Information Directive’), Articles 3 and 4 of Directive 2000/31, Articles 9, 10 and 16 of Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (OJ 2006 L 376, pp. 36) (‘the Services Directive’) and Article 56 TFEU.

However, according to the case-law³ of the Court, a service might not be regarded as falling within the concept of ‘information society service’ even if it displays the characteristics contained in the definition. That is particularly the case if it appears that the intermediary service forms an integral part of an overall service the principal component of which is a service coming under another legal classification.

In that regard, the Court notes that the service provided by Star Taxi App is an add-on to a pre-existing organised taxi transport service. In addition, the service provider does not select the taxi drivers, does not set and collect the fare for the journey and does not have control over the quality of the vehicles and their drivers or the behaviour of the drivers. It follows that the service cannot be regarded as forming an integral part of an overall service the principal component of which is the provision of transport.

The Court assesses, next, whether legislation such as Decision No 626/2017 complies with EU law.

It assesses, first of all, whether such a decision constitutes a technical regulation. The Directive 2015/1535⁴ provides that the Member States are to communicate immediately to the Commission any draft ‘technical regulation’. National legislation affecting an ‘information society service’ is classified as a ‘technical regulation’ if it is specifically aimed at information society services and is obligatory *inter alia* for the provision or use of the service concerned in a Member State or a large part of a Member State.

Since the Romanian legislation makes no mention of information society services and applies to all kinds of ‘dispatching’ service without distinction, whether provided by telephone or by IT application, the Court considers that it does not constitute a ‘technical regulation’. It follows that the obligation for draft ‘technical regulations’ to be communicated to the Commission prior to their adoption does not apply to such legislation.

Next, the Court recalls that the Directive on electronic commerce prohibits Member States from making access to or the exercise of an activity consisting in the provision of ‘information society services’ subject to a prior authorisation scheme or any other requirement having equivalent effect. However, that prohibition does not concern authorisation schemes which do not specifically and exclusively target ‘information society services’, as is the case for Decision No 626/2017.

The Directive 2006/123⁵ allows Member States, under certain conditions, to make access to a service activity subject to such a scheme. Those conditions are: the scheme must not be discriminatory; it must be justified by an overriding reason relating to the public interest; and there must not be less restrictive measures capable of achieving the same objective.

In that regard, the Court states that it is for the referring court to ascertain whether there are overriding reasons relating to the public interest justifying the authorisation scheme for taxi ‘dispatching’ services. However, an authorisation scheme is not based on criteria justified by an overriding reason relating to the public interest when the grant of authorisation is subject to requirements that are technologically unsuited to the service concerned.

The Court concludes that:

first, a service consisting in putting taxi passengers directly in touch, by means of an electronic application, with taxi drivers constitutes an ‘information society service’ where that service is not indissociably linked to the taxi transport service so that it does not form an integral part of that taxi transport service;

³ Judgment of 19 December 2019, *Airbnb Ireland* [C-390/18](#), (paragraph 50), (also see PR [162/19](#)) and judgment of 20 December 2017, *Asociación Profesional Elite Taxi* [C-434/15](#), (paragraphs 38 to 44), (see also PR [136/17](#)).

⁴ See footnote 2.

⁵ Articles 9 and 10 of Directive 2006/123.

second, **legislation of a local authority making the provision of an ‘information society service’ subject to obtaining prior approval, to which other providers of taxi booking services are already subject, does not constitute a ‘technical regulation’** within the meaning of the Information Directive;

third, **the Directive on electronic commerce does not preclude the application, to the provider of an ‘information society service’, of an authorisation scheme previously applicable to providers of economically equivalent services that do not constitute information society services.**

Lastly, it notes that **the Services Directive precludes the application of such an authorisation scheme unless it is in line with the criteria set out in that text, which is a matter for the referring court to ascertain.**

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 European Union 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.

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

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