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Judgment of the Court in Case C-50/21 | Prestige and Limousine

Limiting the number of private hire vehicle service licences in the Barcelona metropolitan area is contrary to European Union law

By contrast, requiring an additional licence to that provided for at national level may prove necessary for the proper management of transport, traffic and public space, as well as for the protection of the environment.

Prestige and Limousine S.L. (P&L) holds licences to operate a private hire vehicle service ('PHV') in the Metropolitan Area of Barcelona (Spain) ('AMB'). P&L contests and seeks the annulment, before the High Court of Justice of Catalonia (Spain), of the local regulations relating to PHV services throughout the AMB. First, those regulations require undertakings already licenced to provide urban and interurban PHV services in Spain to obtain an **additional licence** in order to provide PHV services in the AMB. Secondly, it **limits the number of PHV service licences** to one thirtieth of the taxi service licences granted for that conurbation.

Several disputes of that type are pending before that national court. Fifteen companies that were already providing PHV services in the AMB, including undertakings linked to international online platforms, believe that the sole purpose of the local regulations was to hinder their activity, for the sole purpose of protecting the interests of the taxi industry.

The High Court of Justice of Catalonia has doubts as to the compatibility with EU law both of the limitation imposed on the number of licences for PHV services and of the 'dual licencing' system to which those services have been subject in the AMB, which could be seen as a strategy aimed at minimising competition between PHV services and taxi services. It has therefore decided to refer the matter to the Court of Justice.

In today's judgment, **the Court, in the first place, finds that the two measures provided for by the national legislation do not appear to confer State aid on undertakings providing taxi services.** It does not appear that the local legislation at issue involves the commitment of State resources, which is one of the cumulative conditions required for a measure to be classified as State aid.

In the second place, the Court notes that **the requirement of an additional specific licence and the limitation on the number of licences both constitute restrictions on the exercise of freedom of establishment**, since the former **effectively limits access to the market for any new entrant** and the latter **restricts the number of PHV service providers established in the AMB.**

The Court then examines **whether those restrictions** on freedom of establishment **are justified** by an overriding reason relating to the public interest **and whether** they are such as to guarantee, in a consistent and systematic manner, the attainment of the objective pursued, without going beyond what is necessary to attain it (**principle of proportionality**).

While the objectives of **sound management of transport, traffic and public space in a conurbation**, as well as **environmental protection**, may constitute overriding **reasons in the general interest**, by contrast, the objective

of **ensuring the economic viability of taxi services** is **purely economic in nature** which cannot constitute an overriding reason in the general interest.

As regards **the proportionality of the two measures**, the Court considers that **the requirement of prior licencing may be regarded as necessary** to attain the objectives of sound management of transport, traffic and public space and of protection of the environment. However, that specific licencing must be based on objective, non-discriminatory criteria which are known in advance, **exclude any arbitrariness and do not duplicate controls which have already been carried out** under the national licencing procedure, but which **meet the specific needs of the AMB**.

By contrast, the Court emphasised that **the limitation of PHV licences to one-thirtieth of taxi licences does not appear to be such as to guarantee the attainment of the objectives** of sound management of transport, traffic and public space and protection of the environment. **The arguments put forward in favour of PHV services**, which tend to show that those services do in fact promote the attainment of those objectives (in particular the reduction in the use of private cars; their contribution to achieving the objective of efficient and inclusive mobility, thanks to their level of digitisation and their flexibility in the provision of services, and the provision of such services by means of alternative-energy vehicles, encouraged by State regulation of PHV services), have not been overturned before the Court. The same applies to the arguments that it is **possible to adopt less restrictive measures to limit the possible impact of the PHV fleet on transport, traffic and public space in the AMB** (namely, measures for the organisation of PHV services, limitations on such services during certain time periods or traffic restrictions in certain areas), **as well as to achieve the objective of environmental protection** (for example, by imposing emission limits applicable to vehicles circulating in the AMB).

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.

Press contact: Jacques René Zammit ☎ (+352) 4303 3355.

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