

SUMMARY

ECJ 21 November 2019, joined cases C|203/18 and C|374/18, Working time, Miscellaneous

***Deutsche Post AG, Klaus Leymann – v – Land Nordrhein-Westfalen;
UPS Deutschland Inc. & Co. OHG, DPD Dynamic Parcel
Distribution GmbH & Co. KG, Bundesverband Paket &
Expresslogistik eV – v – Deutsche Post AG, German cases***

Questions

Must a provision of national law, such as that at issue in the main proceedings, which reproduces verbatim the provisions of Article 13(1)(d) of Regulation No 561/2006, — in so far as it applies to vehicles with a maximum mass of more than 2.8 tonnes but not exceeding 3.5 tonnes and which, as a result, do not fall within the scope of Regulation No 561/2006 — be interpreted exclusively on the basis of EU law or whether a national court may apply criteria that differ from those of EU law in order to interpret that provision of domestic law?

Must Article 13(1)(d) of Regulation No 561/2006 be interpreted as meaning that the exception which it lays down covers only vehicles or combinations of vehicles that are used exclusively, during a particular transport operation, for the purpose of delivering items as part of the universal postal service, or whether that exception is applicable also when the vehicles or combinations of vehicles concerned are used predominantly or to a defined degree for the purpose of delivering items covered by the universal postal service?

Must Article 3(1) of Directive 97/67 be interpreted as meaning that the fact that add-on services — such as collection with or without a time slot, a minimum age check, cash on delivery, postage payment by recipient up to 31.5 kilograms, redirection service, instructions in the event of non-delivery and a preferred delivery day and time — are provided in connection with an item precludes that item from being regarded as being delivered within the scope of

the ‘universal service’ under that provision and, therefore, as being an item delivered ‘as part of the universal service’ for the purposes of applying the exception provided for in Article 13(1)(d) of Regulation No 561/2006?

Ruling

A provision of national law, such as that at issue in the main proceedings, which reproduces verbatim the provisions of Article 13(1)(d) of Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85, as amended by Regulation (EU) No 165/2014 of the European Parliament and of the Council of 4 February 2014, must — in so far as it applies to vehicles with a maximum permissible mass of more than 2.8 tonnes but not exceeding 3.5 tonnes and which, as a result, do not fall within the scope of Regulation No 561/2006, as amended by Regulation No 165/2014 — be interpreted exclusively on the basis of EU law, as interpreted by the Court of Justice, where those provisions have, directly and unconditionally, been rendered applicable to such vehicles by national law.

Article 13(1)(d) of Regulation No 561/2006, as amended by Regulation No 165/2014, must be interpreted as meaning that the exception which it lays down covers only vehicles or combinations of vehicles that are used exclusively, during a particular transport operation, for the purpose of delivering items as part of the universal postal service.

Article 3(1) of Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service, as amended by Directive 2008/6/EC of the European Parliament and of the Council of 20 February 2008, must be interpreted as meaning that the fact that add-on services — such as collection with or without a time slot, a minimum age check, cash on delivery, postage payment by recipient up to 31.5 kilograms, redirection service, instructions in the event of non-delivery and a preferred delivery day and time — are provided in connection with an item precludes that item from being regarded as being delivered within the scope of the ‘universal service’ under that provision and, therefore, as being an item delivered ‘as part of the universal service’ for the purposes of applying the exception provided for in Article 13(1)(d) of Regulation No 561/2006, as amended by Regulation No 165/2014.

Creator: European Court of Justice (ECJ)

Verdict at: 2019-11-21

Case number: C|203/18 and C|374/18