



Press and Information

Court of Justice of the European Union

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Judgment in Case C-110/20
Regione Puglia

A Member State may, within the geographical limits set by it, grant several licenses to the same operator for the prospection, exploration and production of hydrocarbons, such as petrol and natural gas, for adjacent areas, provided that it ensures non-discriminatory access to those activities for all operators and assesses the cumulative effect of projects likely to have significant effects on the environment

These requirements follow from the relevant EU legislation on public procurement rules and on protection of the environment

In 2013, Global Petroleum, an Australian company operating in the offshore hydrocarbons sector, submitted four applications to the Italian authorities seeking **four hydrocarbon exploration permits for adjacent areas situated in the Adriatic Sea, off the coast of the Puglia region (Italy). Each of those applications relate to an area of slightly less than 750 km².** Under Italian legislation, the area covered by a permit may not exceed 750 km².

In 2016 and 2017, the Italian authorities found the four exploration projects presented by Global Petroleum to be compatible with the environment.

Regione Puglia (the Region of Puglia) brought actions before the Italian courts seeking, ultimately, to prevent Global Petroleum from exploring approximately 3000 km² of seabed, in total. It **claims that, to prevent the law being ‘circumvented’, the 750 km² limit should apply not only to each permit, but also to each operator.**

It is against this background that the competent Italian court at last instance, the Consiglio di Stato (Council of State, Italy), referred a question to the Court for a preliminary ruling. In essence, the referring court asks whether Directive 94/22/EC,¹ which concerns the prospection, exploration and production of hydrocarbons, requires Member States to set an absolute upper limit on the extent of the areas in which a single operator is permitted to pursue those activities.

By today’s judgment, the Court notes that **Directive 94/22 forms, in particular, part of the body of public procurement rules.** It finds that that directive provides that the extent of the areas covered by an authorisation and the duration of the authorisation must be limited with a view to preventing the reservation to a single entity of an unjustified exclusive right. According to the Court, however, that same directive does not lay down any limitation as regards the number of authorisations that may be issued and/or the number of entities to which authorisations may be issued.

The Court states, moreover, that the delimitation of geographical areas by national legislation and the rules relating to the procedures and conditions for granting authorisations for the prospection, exploration and production of hydrocarbons pursue several objectives. The first of those is to ensure transparent and non-discriminatory access to activities relating to the prospection, exploration and production of hydrocarbons. The second is to ensure the pursuit of those activities under conditions which encourage greater competition in that sector. Lastly, the third objective is to

¹ Directive 94/22/EC of the European Parliament and of the Council of 30 May 1994 on the conditions for granting and using authorisations for the prospection, exploration and production of hydrocarbons (OJ 1994 L 164, p. 3).

favour the best means of prospection, exploration and production of resources in Member States, and to reinforce the integration of the internal energy market.

In addition, the Court notes that the limitation on the size of the area covered by a hydrocarbon exploration authorisation must be regarded as capable of ensuring the best possible exercise of activities from both a technical and economic point of view. If the same operator is able to apply for several authorisations, it is then necessary to ensure that the area covered by those authorisations, taken together, also guarantees the best possible exercise of activities from both a technical and economic point of view, without jeopardising the achievement of the other objectives pursued.

The Court also examines the **environmental protection** requirements flowing from **Directive 2011/92/EU**,² in order to provide a full answer to the Italian court. Indeed, the Italian administrative procedure is also intended to protect interests relating to protection of the environment, yet the referring court stated that the technique used by Global Petroleum to explore for hydrocarbons, which consists in using a high-pressure compressed air generator known as an 'air gun' to generate seismic waves that hit the seabed, could be harmful to marine life. Against that background, the Court examines whether the power to grant several licences for adjacent areas to a single operator complies with environmental requirements. In accordance with its case-law, the Court notes that it may prove necessary to take into account the cumulative effects of projects such as those at issue in the main proceedings in order to avoid a circumvention of EU legislation by splitting up projects which, taken together, are likely to have significant effects on the environment. It is for the competent national authorities to take account of all the environmental effects flowing from the temporal and spatial delimitations of the areas covered by hydrocarbon exploration permits. Therefore, if the legislation of a Member State allows the same operator to apply for several hydrocarbon exploration permits, an assessment must also be made of the cumulative impact of projects likely to have significant effects on the environment.

According to the Court, in short, **national legislation which lays down an upper limit on the size of the area that may be covered by a hydrocarbon exploration permit, but does not expressly prohibit granting the same operator more than one permit for adjacent areas that together cover an area exceeding that limit, conforms to EU law**. However, the Court makes that finding subject to two conditions: first, such a grant must be capable of ensuring the best possible exercise of the exploration activity concerned, from both a technical and economic point of view, and the achievement of the objectives pursued by Directive 94/22. Second, in the context of the environmental impact assessment, the national legislation must take into account the cumulative effect of projects likely to have significant effects on the environment, presented by that operator in its applications for hydrocarbon exploration permits.³

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.

² Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment

³ See press release No [114/21](#) on the Opinion of the Advocate General in this case.