Subject: Direct award of the local public transportation service of passengers, in the so-called hypotheses de minimis

The issue subject of this judgment concerns the compatibility with EU law of the national regulation on local public transportation service which, although not explicitly forbidden, in any case precludes the possibility of direct award having provided for the public tender as a general rule.

The Council of State submitted the following question to the EUCJ:

"If the art. 5, paragraph 4, of Regulation (EC) 23/10/2007 n. 1370/2007 must be interpreted as meaning that the prohibition on direct award of the local public transportation service, which precludes direct awarding even in cases where it would be allowed by the European Union legislation, occurs in the national legislation when the general rule is laid to entrust the aforementioned service by public tender or only in the case of a specific prohibition on direct awarding also in relation to the cases in which it is permitted by the European Union regulations ". 