



LUND UNIVERSITY
Faculty of Law

State Aid and Public Procurement

Module 5

Reading materials

Lectures

- State aid, Services of economic interest
- State aid, The application of article 107 TFEU
- State aid, The application of article 108 TFEU
- Public procurement I
- Public procurement II

Case law

Lecture: State aid, Services of economic interest

- **C-280/00 – Altmark**
The court found that compensation for a service of general economic interest is not state aid and that it was therefore not necessary to use article 106.2 TFEU.

Lecture: Public procurement II

- **C-283/00 – Commission v Spain “SIEPSA”**
The concept of a “body governed by public law” has a common meaning for all Member States. The definition does not necessarily correspond with the national definition in a member state.
- **C-87/94 – Commission v Belgium “Walloon Buses”**
Underlying fundamental principles in the public sector directive 2004/18, such as the principles of non-discrimination, equality of treatment, transparency, mutual recognition and proportionality(34).

- **C-21/03 and C-34/03, joined cases** – Fabricom v Belgium “Fabricom”
Underlying fundamental principles in the public sector directive 2004/18, The definition of the equal treatment principle under the procurement directives
- **C-243/89** – Commission vs. Denmark "Storebaelt"
Underlying fundamental principles in the public sector directive 2004/18, breach of the equal treatment principle.
- **C-6/90 and C-9/90, joined cases** – Francovich
Enforcement at national level - It follows from the principle of effectiveness that the conditions for a remedy must not make it virtually impossible or excessively difficult to obtain reparation.
- **C-513/99** – Concordia Bus Finland Oy Ab vs. Helsinki Kaupunki and HKL-Bussiliikenne “Concordia Buses”
The list in Article 53(1)(a) Public Sector Directive of factors which could be used to decide whose tender is the most advantageous is not exhaustive. Authorities may use other factors, such as environmental factors.
- **C-19/00** – SIAC Construction Ltd v County Council of the County of Mayo “SIAC”
The criteria to be applied by the contracting authority shall be applied consistently throughout the procurement process.

Research Material

- Public Services and State Aid – is a Decentralisation of State Aid Policy Necessary?, Jörgen Hettne
http://www.sieps.se/sites/default/files/2011_14epa_0.pdf