



C/2023/752

20.11.2023

**Request for a preliminary ruling from the Upravno sodišče Republike Slovenije (Slovenia) lodged on 11 September 2023 — T-2 družba za ustvarjanje, razvoj in trženje elektronskih komunikacij in opreme d.o.o. v Agencija za komunikacijska omrežja in storitve Republike Slovenije**

**(Case C-562/23, T-2)**

(C/2023/752)

*Language of the case: Slovenian*

**Referring court**

Upravno sodišče Republike Slovenije

**Parties to the main proceedings**

*Applicant:* T-2 družba za ustvarjanje, razvoj in trženje elektronskih komunikacij in opreme d.o.o.

*Defendant:* Agencija za komunikacijska omrežja in storitve Republike Slovenije

**Questions referred**

1. Are paragraphs (1) and (2) of Article 49 of the EECC Directive <sup>(1)</sup> clear, unconditional and sufficiently precise to enable individuals to rely on them in proceedings before national administrative authorities and national courts?
2. Must paragraphs (1) and (2) of Article 49 of the EECC Directive also be applied to the extension of those individual rights of use for the RFS [radio frequency spectrum] which were granted prior to the entry into force of the EECC Directive, and what are the general criteria which apply in such a case in order to determine whether an individual right must be extended?
3. If the answer to Question 2 is in the negative, for the purposes of assessing an appropriate duration of the individual rights of use for the RFS which were granted during the validity of the Authorisation Directive <sup>(2)</sup> and therefore in relation to the possibility of an extension of those rights, is it necessary to apply the provision set out in Article 5(2) of the Authorisation Directive or the fourth subparagraph of Article 5(2) of the Directive amending the Authorisation Directive, <sup>(3)</sup> and are those provisions sufficiently clear, unconditional and precise to permit their use as a basis for assessing the appropriateness of the duration of an individual right of use for the RFS?
4. If the answer to Question 3 is in the affirmative, what criteria should be applied for the purpose of assessing the appropriateness of the duration of an individual right of use for the RFS or the obligation to extend that right?
5. If the answer to Question 1, 2 or 3 is in the affirmative, is it necessary, for the purposes of the decision on the extension, to take account of the fact that the possibility of an extension beyond 15 years was expressly excluded by the national provisions in force at the time when that right of use expired?

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<sup>(1)</sup> Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code (Recast) (OJ 2018 L 321, p. 36).

<sup>(2)</sup> Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (OJ 2002 L 108, p. 21).

<sup>(3)</sup> Directive 2009/140/EC of the European Parliament and of the Council of 25 November 2009 amending Directives 2002/21/EC, 2002/19/EC, and 2002/20/EC (OJ 2009 L 337, p. 37).