



## MEDIA BRIEFING

Brussels, 28 July

### Court ruling opens way for better public transport in Europe

The European Court of Justice last week ruled that governments can pay subsidies for public transport without breaking EU competition rules, but only as long as they are for clearly-defined public service obligations.

T&E policy officer, Stephanos Anastasiadis, said, **“Public money may only be given in exchange for concrete performance. This will give public transport a chance to become more customer oriented and environmentally friendly. This is because the ruling requires authorities to get added-value public services in return for subsidies: it is no longer enough to simply provide a passenger transport service.”**

#### Background

In 1990 Altmark Trans obtained licences and subsidies for putting on bus services for the public in the district of Stendal, Germany, under the authority of the city of Magdeburg. In 1994 the German authorities renewed Altmark's licences and rejected an application for licences by *Nahverkehrsgesellschaft Altmark*. This company went to court, claiming that Altmark Trans was not financially viable because it could not have survived without public subsidies, and therefore the licences were unlawful. The case was referred to the European Court of Justice.

#### The ruling

Judgment of the Court, Case C-280/00; Press release 64/03, 24 July 2003

In its ruling, the Court of Justice said competent authorities may pay subsidies to help companies fulfil public service requirements, and that this does not constitute illegal state aid, provided four criteria are met:

- The recipient must actually have public service obligations to fulfil, and these must be clearly defined.
- How the compensation is to be calculated must be established in advance in a transparent and objective way.
- Compensation cannot be greater than the costs to be covered, allowing for a reasonable profit
- If the undertaking is not chosen by tendering, the level of compensation must be estimated on the basis of the costs which a typical enterprise would incur.

It will be up to national courts to apply the decision on a case-by-case basis.

#### Analysis

This complicated ruling gives a legal basis for providing funding for public transport. It removes some possibilities for funding which had previously existed, but also ensures that public money is used efficiently. The ruling also provides an opportunity for local authorities to promote better environmental and social standards in the public transport they manage. Putting public transport services out to tender will be the best way of meeting the requirements in the Court's ruling. At present some EU countries have open markets; others, like Germany do not. The Commission has proposed to open public transport markets to competitive tendering, so as to provide legal certainty across the EU. The Court's ruling should speed up the proposal's passage through the legislative process.

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#### **More information**

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The International Council for Local Environment Initiatives, Verkehrsclub Deutschland and the European Federation for Transport and Environment are presently co-ordinating a project called Sustainability In the Urban Public Transport Market. It promotes Europe-wide exchange on improving environment and social standards in public transport in the context of controlled competition. More information available at: <http://www.iclei.org/ecoprocura/siptram/>