



C/2023/123

16.10.2023

Request for a preliminary ruling from the Naczelny Sąd Administracyjny (Poland) lodged on 19 July 2023 — E. sp. z o.o. v Prezydent Miasta Mielca

(Case C-453/23, Prezydent Miasta Mielca)

(C/2023/123)

Language of the case: Polish

Referring court

Naczelny Sąd Administracyjny

Parties to the main proceedings

Appellant on a point of law: E. sp. z o.o.

Respondent in the appeal on a point of law: Prezydent Miasta Mielca

Intervening party: Rzecznik Małych i Średnich Przedsiębiorców

Questions referred

1. In the light of Article 107(1) of the Treaty on the Functioning of the European Union, does the grant by a Member State of tax relief addressed to all operators, such as that provided for in Article 7(1)(1)(a) of the Ustawa z dnia 12 stycznia 1991 r. o podatkach i opłatach lokalnych (Law of 12 January 2019 on local taxes and fees) (Dz.U. 2019, item 1170, as amended), consisting in an exemption from tax on immovable property for land, buildings and structures forming part of railway infrastructure within the meaning of the provisions on rail transport, which is made available to rail-transport operators, distort or threaten to distort competition?
2. If the answer to Question 1 is in the affirmative, is an operator which has availed itself of the tax exemption pursuant to the abovementioned provision of national law, introduced without following the required procedure, as laid down in Article 108(3) of the Treaty on the Functioning of the European Union, in conjunction with Article 2 of Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union, ⁽¹⁾ required to pay the outstanding tax, plus interest?

⁽¹⁾ OJ 2015 L 248, p. 9.