

4. Is the levying of the German nuclear fuel duty inconsistent with the provisions of the Treaty establishing the European Atomic Energy Community (EURATOM)?

- (¹) Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC (OJ 2009 L 9, p. 12).
 (²) Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (Text with EEA relevance) (OJ 2003 L 283, p. 51).

Request for a preliminary ruling from the Conseil d'État (France) lodged on 20 January 2014 — Union des syndicats de l'immobilier (UNIS) v Ministre du travail, de l'emploi, de la formation professionnelle et du dialogue social, Syndicat national des résidences de tourisme (SNRT) and Others

(Case C-25/14)

(2014/C 85/30)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Applicant: Union des syndicats de l'immobilier (UNIS)

Defendants: Ministre du travail, de l'emploi, de la formation professionnelle et du dialogue social, Syndicat national des résidences de tourisme (SNRT) and Others

Question referred

Is compliance with the obligation of transparency flowing from Article 56 TFEU a mandatory prior condition for the extension, by a Member State, to all undertakings within a sector, of a collective agreement under which a single operator, chosen by the social partners, is entrusted with the management of a compulsory supplementary social security scheme for employees?

Request for a preliminary ruling from the Conseil d'État (France) lodged on 20 January 2014 — Beaudout Père et Fils SARL v Ministre du travail, de l'emploi, de la formation professionnelle et du dialogue social, Confédération nationale de la boulangerie et boulangerie-pâtisserie française, Fédération Générale Agroalimentaire — CFDT and Others

(Case C-26/14)

(2014/C 85/31)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Applicant: Beaudout Père et Fils SARL

Defendants: Ministre du travail, de l'emploi, de la formation professionnelle et du dialogue social, Confédération nationale de la boulangerie et boulangerie-pâtisserie française, Fédération Générale Agroalimentaire — CFDT and Others

Question referred

Is compliance with the obligation of transparency flowing from Article 56 TFEU a mandatory prior condition for the extension, by a Member State, to all undertakings within a sector, of a collective agreement under which a single operator, chosen by the social partners, is entrusted with the management of a compulsory supplementary social security scheme for employees?

Action brought on 21 January 2014 — European Commission v Republic of Poland

(Case C-29/14)

(2014/C 85/32)

Language of the case: Polish

Parties

Applicant: European Commission (represented by: C. Gheorghiu and M. Owsiany-Hornung, Agents)

Defendant: Republic of Poland

Form of order sought

The Commission claims that the Court should:

— declare that the Republic of Poland has failed to fulfil its obligations under Article 31 of Directive 2004/23/EC of the European Parliament and of the Council of 31 March 2004 on setting standards of quality and safety for the donation,

procurement, testing, processing, preservation, storage and distribution of human tissues and cells,⁽¹⁾ under Articles 3(b), 4(2) and 7 of, and Annex III to, Commission Directive 2006/17/EC of 8 February 2006 implementing Directive 2004/23/EC of the European Parliament and of the Council as regards certain technical requirements for the donation, procurement and testing of human tissues and cells,⁽²⁾ and under Article 11 of Commission Directive 2006/86/EC of 24 October 2006 implementing Directive 2004/23/EC of the European Parliament and of the Council as regards traceability requirements, notification of serious adverse reactions and events and certain technical requirements for the coding, processing, preservation, storage and distribution of human tissues and cells⁽³⁾ by exempting reproductive cells and embryonic and foetal tissue from the scope of the provisions of national law designed to transpose those directives;

— order the Republic of Poland to pay the costs of the proceedings.

Pleas in law and main arguments

Poland's transposition of Directives 2004/23, 2006/17 and 2006/86 into the Polish legal system is incomplete because the scope of the Law of 1 July 2005 on the procurement, storage and transplantation of cells, tissue and organs, by which those directives were transposed into the Polish legal system, and of the implementing measures adopted on the basis of that Law does not encompass reproductive cells and embryonic and foetal tissue.

As a result, Polish legislation contains no provisions for the transposition of Directives 2004/23 and 2006/86 in so far as those directives relate to reproductive cells and embryonic and foetal tissue.

There has also been a failure to transpose the provisions of Directive 2006/17 concerning reproductive cells, that is to say, Articles 3(b) and 4(2) of, and Annex III to, that directive.

In the procedure prior to the judicial proceedings, while the Republic of Poland confirmed that there were no corresponding provisions in national law, it stressed the following: *'In the context of reproductive cells and embryonic and foetal tissue, the provisions of the directives are to a large degree applied in daily clinical practice — they have been transposed at an expert level ...'*

The Commission takes the view that it was necessary for the provisions in question to be transposed in full by way of legally binding measures.

⁽¹⁾ OJ 2004 L 102, p. 48.

⁽²⁾ OJ 2006 L 38, p. 40.

⁽³⁾ OJ 2006 L 294, p. 32.

Action brought on 24 January 2014 — European Commission v Republic of Poland

(Case C-36/14)

(2014/C 85/33)

Language of the case: Polish

Parties

Applicant: European Commission (represented by: K. Herrmann and M. Patakia, Agents)

Defendant: Republic of Poland

Form of order sought

The Commission claims that the Court should:

— declare that, by engaging in State intervention, unlimited in time, in such a way that (i) energy undertakings are obliged to apply prices for supplies of natural gas which have been approved by the president of the Energy Regulation Authority, although national law does not impose on the national administrative authorities any obligation to check at regular intervals the necessity and nature of the application of that intervention in the gas sector, having regard to the level of development of that sector, and (ii) that intervention is characterised by its application to an unlimited group of users, without any distinction being drawn according to customers and without any differentiation of the situation of individuals within the context of individual groups, the Republic of Poland is applying a measure which is disproportionate and incompatible with Article 3(2) of Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC,⁽¹⁾ and, in this connection, has failed to comply with its obligations under Article 3(1), in conjunction with Article 3(2), of that directive;

— order the Republic of Poland to pay the costs of the proceedings.

Pleas in law and main arguments

The obligation, laid down in Article 47 of the Polish Energy Law, failure to comply with which attracts a monetary fine, to obtain the approval of the president of the Energy Regulation Authority in respect of prices for supplies of natural gas constitutes, in so far as it applies to all energy undertakings for supplies to customers other than households, State intervention in the form of price regulation which is at variance with the requirements of the principle of proportionality and, in that connection, breaches Article 3(1) and (2) of Directive 2009/73/EC.

The disputed State intervention fails to satisfy the standards laid down by the Court of Justice in its judgment in Case C-265/08 *Federutility and Others*, as the national law in force (the Energy