

**Parties to the main proceedings**

*Applicant:* Elektrorazpredelenie Yug EAD

*Defendant:* Komisia za energiyno i vodno regulirane

**Questions referred**

1. Are the provisions of Article 2.3 and 2.5 of Directive 2009/72/EC <sup>(1)</sup> to be interpreted as meaning that the voltage is the sole criterion by which the distribution system is distinguished from the transmission system and, by extension, electricity 'distribution' activities are distinguished from electricity 'transmission' activities and that, despite their freedom of action to allocate system users to either the transmission or the distribution system, Member States are not allowed to introduce ownership of the assets used to exercise those activities as an additional criterion for the purpose of distinguishing transmission activities from distribution activities?
2. If the first question is answered in the affirmative: should electricity customers connected to the medium-voltage network always be treated as customers of the distribution system operator which holds a licence for the area concerned, irrespective of who owns the equipment to which the customer's electrical installations are directly connected and irrespective of the contracts concluded directly between the customer and the transmission system operator?
3. If the first question is answered in the negative: are national rules in keeping with the spirit and purpose of Directive 2009/72/EC permissible, such as those laid down in Paragraph 1(44), read in combination with Paragraph 1(20), of the Addenda to the Bulgarian Energy Law, which state that 'transmission of electricity' means the transport of electricity via the transmission network and that 'electricity transmission system' means all the power lines and installations used for the transmission, transformation from high to medium voltage and redistribution of electricity? All other things being equal, are national regulations permissible, such as those laid down in Article 88(1) of the Bulgarian Energy Law, which states that electricity is to be distributed and electricity distribution systems are to be operated by distribution network operators which own those networks in a specific area and hold an electricity distribution licence for that area?

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<sup>(1)</sup> Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC (Text with EEA relevance) (OJ 2009 L 211, p. 55).

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**Action brought on 14 February 2018 — European Commission v Italian Republic**

**(Case C-122/18)**

(2018/C 123/19)

*Language of the case: Italian*

**Parties**

*Applicant:* European Commission (represented by: G. Gattinara and C. Zadra, acting as Agents)

*Defendant:* Italian Republic

**Form of order sought**

The Commission claims that the Court should:

- declare that, by having failed and by continuing to fail to ensure that the public authorities avoid exceeding the time limits of 30 or 60 calendar days for paying their trade debts, the Italian Republic has failed to fulfil its obligations under Directive 2011/7/EU of the European Parliament and of the Council of 16 February 2011 on combating late payment in commercial transactions (OJ 2011 L 48, p. 1) and, in particular, its obligations as set out in Article 4 of that directive;
- order the Italian Republic to pay the costs.

**Pleas in law and main arguments**

The evidence before the Commission, which is based on the information provided by the Italian Republic during the pre-litigation procedure, indicates that the payment periods of 30 and 60 days set out in Article 4 of Directive 2011/7/EU on combating late payment have been exceeded, not by individual entities but by entire categories of public authorities, not in relation to one individual commercial transaction but in terms of the average time taken to pay, that is, in respect of all the transactions concluded by those authorities, and, lastly, not over a limited period but consistently, from September 2014 until the date on which the present action was brought. The Commission therefore considers that sustained and systematic infringement of Article 4 of that directive has been established.

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