

Defendant: Kingdom of Spain

Form of order sought

The applicant claims that the Court should:

- declare that, by failing to adopt, by 10 April 2016 at the latest, all of the laws, regulations and administrative provisions necessary to comply with Directive 2014/26/EU of the European Parliament and of the Council of 26 February 2014 on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market ⁽¹⁾ or, in any event, by failing to notify those measures to the Commission, the Kingdom of Spain has failed to fulfil its obligations under Article 43 of that directive;
- impose on the Kingdom of Spain, in accordance with Article 260(3) TFEU, a daily penalty payment of EUR 123 928,64, with effect from the date of delivery of the judgment declaring the failure to fulfil the obligation to adopt, or, in any event, to notify to the Commission, the measures necessary to comply with Directive 2014/26/EU;
- order the Kingdom of Spain to pay the costs.

Pleas in law and main arguments

Under Article 43(1) of Directive 2014/26/EU, Member States were required to adopt and publish, by 10 April 2016 at the latest, the laws, regulations and administrative provisions necessary to comply with that directive, and immediately to inform the Commission thereof.

Given that the Kingdom of Spain has failed fully to transpose Directive 2014/26/EU and has failed to notify the Commission of the transposition measures, the Commission has instituted the present proceedings before the Court of Justice.

The Commission proposes that the Kingdom of Spain should be ordered to pay, from the date of delivery of the judgment, a daily penalty of EUR 123 928,64, calculated with due regard to the seriousness and duration of the infringement as well as to the need to ensure a deterrent effect in the light of the financial capacity of that Member State.

⁽¹⁾ OJ 2014 L 84, p. 72.

**Request for a preliminary ruling from the Nejvyšší soud České republiky (Czech Republic) lodged on
23 March 2018 — Jana Petruřová v FIBO Group Holdings Ltd**

(Case C-208/18)

(2018/C 200/29)

Language of the case: Czech

Referring court

Nejvyšší soud České republiky

Parties to the main proceedings

Applicant: Jana Petruřová

Defendant: FIBO Group Holdings Ltd

Question referred

Is Article 17(1) of Regulation (EU) No 1215/2012 ⁽¹⁾ of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters to be interpreted as meaning that a person, such as the applicant in the main proceedings, who engages in trade on FOREX, the international currency exchange market, on the basis of actively placing his own orders, although through a third party who is professionally engaged in that trade, must be regarded as a consumer under that provision?

⁽¹⁾ OJ L 351, 20.12.2012, p. 1.

Action brought on 11 April 2018 — European Commission v Republic of Croatia**(Case C-250/18)**

(2018/C 200/30)

*Language of the case: Croatian***Parties**

Applicant: European Commission (represented by: M. Mataija and E. Sanfrutos Cano, acting as Agents)

Defendant: Republic of Croatia

Form of order sought

The applicant claims that the Court should:

- declare that, by failing to specify that the stone aggregate deposited in the Biljane Donje landfill is waste, rather than a by-product, and must therefore be treated as waste, the Republic of Croatia has failed to fulfil its obligations under Article 5(1) of Directive 2008/98; ⁽¹⁾
- declare that, by failing to take all the measures necessary to ensure that management of the waste deposited in Biljane Donje is carried out without endangering human health or harming the environment, the Republic of Croatia has failed to fulfil its obligations under Article 13 of Directive 2008/98;
- declare that, by failing to take the measures necessary to ensure that the holder of the waste deposited in the landfill of Biljane Donje carried out the treatment of waste himself or had the treatment handled by a dealer or an establishment or undertaking that carries out waste treatment operations or arranged by a private or public waste collector, the Republic of Croatia has failed to fulfil its obligations under Article 15(1) of Directive 2008/98;
- order the Republic of Croatia to pay the costs.

Pleas in law and main arguments

As regards the infringement of Article 5(1) of the Directive:

Article 5(1) of the Directive lays down cumulative criteria that must all be fulfilled in order for a substance or object resulting from a production process the primary aim of which is not the production of that substance or object to be considered a by-product rather than as waste. The Republic of Croatia incorrectly applied Article 5(1) to the waste deposited in Biljane Donje, given that it failed to determine that it constituted waste instead of a by-product even though further use of the waste was not certain, within the meaning of Article 5(1)(a) of the Directive.