

Parties to the main proceedings

Applicant: Oro Efectivo S.L.

Defendant: Diputación Foral de Bizkaia

Question referred

Does Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, ⁽¹⁾ the principle of tax neutrality arising from that directive, and the case-law of the Court of Justice interpreting the directive preclude a national rule of law under which a Member State may require payment of an indirect tax other than VAT from a business person or professional in respect of the purchase of movable property (specifically, gold, silver or jewellery) from a private individual where:

1. the purchased object is going to be processed and subsequently sold on in the course of that business person's economic activities;
2. transactions subject to VAT will occur when the purchased property is reintroduced into the course of trade; and
3. in such transactions the applicable legislation in that same Member State does not permit the business person or professional to deduct the amount paid by way of that tax in respect of the initial purchase?

⁽¹⁾ OJ 2006 L 347, p. 1.

Action brought on 15 March 2018 — European Commission v Republic of Poland

(Case C-192/18)

(2018/C 182/17)

Language of the case: Polish

Parties

Applicant: European Commission (represented by: A. Szmytkowska, K. Banks, H. Krämer and C. Valero, acting as Agents)

Defendant: Republic of Poland

Form of order sought

The applicant claims that the Court should:

- declare that, by introducing, in Article 13(1) to (3) of the Ustawa z dnia 12 lipca 2017 r. o zmianie ustawy — Prawo o ustroju sądów powszechnych (Law of 12 July 2017 amending the Law on the Organisation of Ordinary Courts), a distinction between the retirement age for men and women working as ordinary judges, Supreme Court judges, and prosecutors, the Republic of Poland has failed to fulfil its obligations under Article 157 of the Treaty on the Functioning of the European Union and under Articles 5(a) and 9(1)(f) of Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast); ⁽¹⁾ and that,
- by lowering, by means of Article 13(1) of that law, the retirement age applicable to ordinary court judges, and at the same time granting the Minister for Justice the right to decide whether to extend the period of active service of judges pursuant to Article 1(26)(b) and (c) of that law, the Republic of Poland has failed to fulfil its obligations under the second subparagraph of Article 19(1) of the Treaty on European Union, read in conjunction with Article 47 of the Charter of Fundamental Rights of the European Union;
- order the Republic of Poland to pay the costs.

Pleas in law and main arguments

The Commission submits that, by introducing, in Article 13(1) to (3) of the Ustawa z dnia 12 lipca 2017 r. o zmianie ustawy — Prawo o ustroju sądów powszechnych (Law of 12 July 2017 amending the Law on the Organisation of Ordinary Courts), provisions distinguishing between the retirement age for men and women working as ordinary judges, Supreme Court judges, and prosecutors, and by lowering, by means of Article 13(1) of that law, the retirement age applicable to ordinary court judges, and at the same time granting the Minister for Justice the right to decide whether to extend the period of active service of judges pursuant to Article 1(26)(b) and (c) of that law, the Republic of Poland has failed to fulfil its obligations under Article 157 of the Treaty on the Functioning of the European Union and Articles 5(a) and 9(1)(f) of Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast) and its obligations under the second subparagraph of Article 19(1) of the Treaty on European Union, read in conjunction with Article 47 of the Charter of Fundamental Rights of the European Union.

⁽¹⁾ OJ 2006 L 204, p. 23.

Request for a preliminary ruling from the Cour d'appel de Mons (Belgium) lodged on 19 March 2018 — Mydibel S.A. v État belge

(Case C-201/18)

(2018/C 182/18)

Language of the case: French

Referring court

Cour d'appel de Mons

Parties to the main proceedings

Applicant: Mydibel S.A.

Respondent: État belge

Question referred

Must Articles 14, 15, 168, 184, 185, 187 and 188 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, ⁽¹⁾ be interpreted and applied as meaning that there is, or is not, a revision/adjustment of VAT on an investment good comprising immovable property which had initially been deducted correctly, in the case where that immovable property acquired as a capital good was the subject of a 'sale and lease back' transaction, given that:

- the 'sale and lease back' is created by the combined and simultaneous granting of a right of emphyteusis (being a temporary right in rem) by the taxable person to two financial institutions and by a leasing by those two institutions to the taxable person;
- that 'sale and lease back' is a purely financial transaction designed to increase the liquidity of the taxable person;
- the 'sale and lease back' transaction was not subject to VAT;
- the investment property remained in the possession of the taxable person and was used for the taxable activity of the taxable person in a continuous and sustainable manner, both before and after the transaction?