

### 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.

<sup>(1)</sup> 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, <sup>(1)</sup> 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?

Does an interpretation and application of the abovementioned provisions leading to a revision/adjustment of the VAT initially deducted comply with the principle of neutrality of VAT and/or with the principle of equal treatment??

---

<sup>(1)</sup> OJ 2006 L 347, p. 1.

---

**Action brought on 23 March 2018 — European Commission v Republic of Poland**

**(Case C-206/18)**

(2018/C 182/19)

*Language of the case: Polish*

**Parties**

*Applicant:* European Commission (represented by: J. Samnadda, J. Hottiaux and G. von Rintelen, acting as Agents)

*Defendant:* Republic of Poland

**Form of order sought**

The applicant claims that the Court should:

- declare that, by failing to adopt the laws, regulations and administrative provisions necessary to ensure compliance 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, <sup>(1)</sup> or, in any event, by failing to notify the Commission of such provisions, the Republic of Poland has failed to fulfil its obligations under Article 43 of that directive;
- order the Republic of Poland, pursuant to Article 260(3) TFEU, to pay a penalty payment for failure to fulfil its obligation to notify the measures transposing Directive 2014/26/EU at a daily rate of EUR 87 612 from the day on which judgment is delivered in the present case;
- order the Republic of Poland to pay the costs.

**Pleas in law and main arguments**

Pursuant to Article 43(1) of 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, the Member States were required to introduce the laws, regulations and administrative provisions necessary to ensure compliance with that directive by 10 April 2016. They were required immediately to inform the Commission thereof.

On 22 November 2017 the Republic of Poland sent to the Commission three already existing legal acts, which only partially transpose Directive 2014/26/EU. Because the Republic of Poland has still not incorporated into Polish law, or brought into force, all the necessary provisions, the Commission has decided to bring an action before the Court of Justice of the European Union.

In its application, the Commission requests that the Republic of Poland be ordered to pay a penalty payment at a daily rate of EUR 87 612 from the day on which judgment is delivered in the present case. That rate has been established by taking into account the seriousness of the infringement, the duration of the infringement, and the need to ensure deterrence.

---

<sup>(1)</sup> OJ 2014 L 84, p. 72.