

**Request for a preliminary ruling from the Administrativen sad Varna (Bulgaria) lodged on 23 September 2013 — Levent Redzheb Yumer v Direktor na Teritorialna direksia na NAP — Varna**

(Case C-505/13)

(2013/C 344/87)

*Language of the case: Bulgarian*

**Referring court**

Administrativen sad Varna

**Parties to the main proceedings**

*Applicant:* Levent Redzheb Yumer

*Defendant:* Teritorialna direksia na NAP — Varna

**Questions referred**

1. Do Article 2 of the Treaty on European Union and Articles 20 and 21 of the Charter of Fundamental Rights of the European Union allow that only one category of persons — natural persons registered under the Zakon za danak varhu dobavenata stoynost (Law on value added tax, 'ZDDS') — has no legally recognised right to a tax reduction in respect of an agricultural activity?
2. Do Article 2 of the Treaty on European Union and Articles 20 and 21 of the Charter of Fundamental Rights of the European Union allow the setting of different tax rates for the same type of activity depending on the legal form of the exercise of that activity and registration under the ZDDS?
3. Is the introduction of internal measures which result in natural persons registered under the ZDDS and as farmers being denied a tax reduction that is provided for sole traders and legal persons — although they have fulfilled their legal obligations to constitute their taxable income in the same way as sole traders and to determine their annual basis of assessment in the same way as sole traders — an infringement of the principles of legal certainty, effectiveness and proportionality?

**Appeal brought on 19 September 2013 by Lito Maieftiko Ginaikologiko kai Khirourgiko Kentro AE against the judgment of the General Court (Fourth Chamber) of 9 July 2013 in Case T-552/11 Lito Maieftiko Ginaikologiko kai Khirourgiko Kentro v Commission**

(Case C-506/13 P)

(2013/C 344/88)

*Language of the case: Greek*

**Parties**

*Appellant:* Lito Maieftiko Ginaikologiko kai Khirourgiko Kentro AE (represented by: E. Tzannini, lawyer)

*Other party to the proceedings:* European Commission

**Form of order sought**

The appellant claims that the Court should:

- uphold the present action;
- set aside the judgment of the General Court of the European Union (registered under No 575925) of 9 July 2013 in Case T-552/11;
- hear and rule on the substance of the present case, alternatively refer the case back to the General Court of the European Union for it to examine the substance of the case;
- dismiss the counter claim of the European Commission in that all the relevant forms of order raised at first instance are wholly inadmissible and in any event unfounded;
- uphold the action brought on 24 October 2011 by the 'Lito Maieftiko Ginaikologiko kai Khirourgiko Kentro' for the annulment of the debit note No 3241109207 issued on 9 September 2011;
- annul the contested debit note No 3241109207 for the sum of EUR 83 001,09;
- order the European Commission to pay the costs.

**Pleas in law and main arguments**

1. Error of law, in the failure to recognise that the debit note produces legal effects and as a result misapplication of Article 263 TFEU. The General Court, in holding that the European Commission did not exercise powers which it holds as a public authority and that the purpose of the debit note resides in the exercise of rights acquired by the Commission from the provisions of the contract committed an error of law.
2. Error of law, in the incorrect classification under the legal concept of 'undue payment'. The General Court's interpretation of the contract in respect of the meaning of undue payment is incorrect and wholly improper.
3. Infringement of the fundamental principles of European Union law in that the arguments of 'Lito Maieftiko Ginaikologiko kai Khirourgiko Kentro' in relation to the default interest rate were not taken into account. The General Court unlawfully determined the date when interest would start to run as the date following the date for payment stated in the debit note.
4. Application of the incorrect legal criteria in the assessment by the General Court of the evidence. The General Court incorrectly called into question the working hours of the persons employed.