



## Reports of Cases

### Judgment of the Court (Sixth Chamber) of 12 November 2020 – *Commission v Belgium* (Foreign income from immovable property)

(Case C-842/19)<sup>1</sup>

(Failure of a Member State to fulfil obligations – Judgment of the Court establishing a failure to fulfil obligations – Non-compliance – Free movement of capital – Article 63 TFEU – Incompatibility of Belgian tax provisions concerning income from immovable property located abroad – Article 260(2) TFEU – Application for an order to pay a penalty payment and a lump sum)

1. *Actions for failure to fulfil obligations – Judgment of the Court establishing the failure of a Member State to fulfil its obligations – Period for implementation – Reference date for assessing whether there has been a failure to fulfil obligations*

(Art. 260(2) TFEU)

(see para. 12)

2. *Actions for failure to fulfil obligations – Judgment of the Court establishing the failure of a Member State to fulfil its obligations – Breach of the obligation to comply with the judgment – Pecuniary penalties – Purpose – Prevention of repetition of similar infringements*

(Art. 260(2) TFEU)

(see para. 45)

3. *Actions for failure to fulfil obligations – Judgment of the Court establishing the failure of a Member State to fulfil its obligations – Breach of the obligation to comply with the judgment – Pecuniary penalties – Periodic penalty payment – Lump sum – Whether the two penalties should be cumulated – Whether permissible*

(Art. 260(2) TFEU)

(see para. 46)

<sup>1</sup> OJ C 45, 10.2.2020.

4. *Actions for failure to fulfil obligations – Judgment of the Court establishing the failure of a Member State to fulfil its obligations – Breach of the obligation to comply with the judgment – Pecuniary penalties – Imposition of a lump sum payment – Discretion of the Court – Criteria for assessment*

(Art. 260(2) TFEU)

(see paras 47, 48)

5. *Actions for failure to fulfil obligations – Judgment of the Court establishing the failure of a Member State to fulfil its obligations – Breach of the obligation to comply with the judgment – Pecuniary penalties – Lump sum – Calculation of the amount – Criteria – Duration of the infringement – Assessment at the date of examination of the facts by the Court*

(Art. 260(2) TFEU)

(see paras 55, 56)

6. *Actions for failure to fulfil obligations – Judgment of the Court establishing the failure of a Member State to fulfil its obligations – Breach of the obligation to comply with the judgment – Pecuniary penalties – Lump sum – Calculation of the amount – Criteria – Payment capacity – Date of assessment*

(Art. 260(2) TFEU)

(see para. 58)

7. *Actions for failure to fulfil obligations – Judgment of the Court establishing the failure of a Member State to fulfil its obligations – Breach of the obligation to comply with the judgment – Pecuniary penalties – Periodic penalty payment – Imposition of a penalty payment – Condition – Failure to comply continuing up to the time of the Court's examination of the facts*

(Art. 260(2) TFEU)

(see para. 61)

8. *Actions for failure to fulfil obligations – Judgment of the Court establishing the failure of a Member State to fulfil its obligations – Breach of the obligation to comply with the judgment – Pecuniary penalties – Periodic penalty payment – Determination of the form to be taken and of the amount – Discretion of the Court – Criteria*

(Art. 260(2) TFEU)

(see paras 63-65)

## Operative part

The Court:

1. Declares that, by failing to take all the measures necessary to comply with the judgment of 12 April 2018 delivered in Case C-110/17, *Commission v Belgium* (C-110/17, EU:C:2018:250), the Kingdom of Belgium failed to fulfil its obligations under Article 260(1) TFEU;
2. Orders the Kingdom of Belgium to pay to the European Commission a lump sum of EUR 2 000 000;
3. Orders the Kingdom of Belgium to make to the European Commission a penalty payment of EUR 7 500 per day as from the date of delivery of the present judgment and until the date of compliance with the judgment of 12 April 2018, *Commission v Belgium* (C-110/17, EU:C:2018:250);
4. Orders the Kingdom of Belgium to pay the costs.