

Parties to the main proceedings

Applicant: YJ

Defendant: Instituto Nacional de la Seguridad Social (INSS)

Question referred

Can a provision like Article 60(4) of the General Law on Social Security (Ley General de la Seguridad Social), which excludes the maternity supplement for women who retire [early] voluntarily, as opposed to those who retire, also voluntarily, at the normal age provided for, or who retire early but on the basis of work performed throughout their working lives, by reason [of] disability, or because they ceased employment before taking retirement through no fault of their own, be considered to constitute direct discrimination for the purposes of Directive 79/7? ⁽¹⁾

⁽¹⁾ Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security OJ 1979 L 6, p. 24.

Action brought on 16 March 2020 — European Commission v Republic of Poland

(Case C-139/20)

(2020/C 201/25)

Language of the case: Polish

Parties

Applicant: European Commission (represented by: M. Siekierzyńska and A. Armenia, acting as Agents)

Defendant: Republic of Poland

Form of order sought

The applicant claims that the Court should:

— declare that, by implementing a law which grants an exemption from excise duty for energy products used by energy-intensive businesses covered by the EU Emissions Trading System, the Republic of Poland has failed to fulfil its obligations under Article 17(1)(b) and Article 17(4) of Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity; ⁽¹⁾

— order the Republic of Poland to pay the costs.

Pleas in law and main arguments

The Republic of Poland has introduced into its national legislation an exemption from excise duty for energy products used by energy-intensive businesses covered by the EU Emissions Trading System ('the EU ETS').

In the Commission's view, this constitutes a failure to fulfil obligations under Article 17(1)(b) and Article 17(4) of Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity. According to those provisions, exemption from or reduction of the level of taxation applied to energy products used by energy-intensive businesses is possible only where agreements are concluded with undertakings or associations of undertakings, or where tradable permit schemes or equivalent arrangements are implemented, as far as they lead to the achievement of environmental protection objectives or to improvements in energy efficiency. The EU ETS cannot, in the Commission's view, be regarded as a 'tradable permit [scheme]' for the purposes of those provisions.

⁽¹⁾ OJ 2003 L 283, p. 51.