

Pleas in law and main arguments

In transposing Directive 2014/24, Poland exempted the production of a wide range of documents, printed matter and stamps and markings from the scope of the procedures provided for in that directive. The exemptions introduced by Poland concern public documents (such as, for instance, national ID cards, passport documents and sailors' service record books); excise stamps, legal markings and vehicle inspection stickers; ballot papers and holographic markings placed on voting rights certificates; microprocessors with software used for the management of public documents; and IT systems and databases essential for the use of public documents. According to the Commission, the introduction of those exemptions amounts to infringement of Directive 2014/24, since the scope of that directive has been limited in a manner that is not justified by the provisions of Directive 2014/24 or Article 346 TFEU. The Commission relies on the judgment of the Court of Justice in Case C-187/16, *Commission v Austria*, as an important precedent in that regard.

In the context of the pre-litigation procedure, Poland has argued that there is a need to protect the security of official documents. While agreeing that there is a need to guarantee the security and authenticity of those documents, the Commission considers that Poland has not demonstrated that the required protection, including protection against falsification or protection connected with the provisions on the protection of personal data, cannot be realised in the context of the public procurement procedure provided for in Directive 2014/24.

(¹) OJ 2014 L 94, p. 65.

Action brought on 28 September 2021 — European Commission v Republic of Poland

(Case C-602/21)

(2021/C 490/25)

Language of the case: Polish

Parties

Applicant: European Commission (represented by: D. Milanowska and M. Noll-Ehlers, acting as Agents)

Defendant: Republic of Poland

Form of order sought

The applicant claims that the Court should:

— declare that:

- (1) by requiring action plans for areas where permissible noise levels have not been exceeded to be drawn up no later than 18 July 2024, the Republic of Poland has failed to fulfil its obligations under Article 8(1) and (2) of Directive 2002/49[EC] of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise; (¹)
- (2) by not requiring action plans to include a record of the public consultations organised in accordance with Article 8 (7) of Directive 2002/49, as well as an indication of the measures that the competent bodies intend to take in the following five years to protect quiet areas, the Republic of Poland has failed to fulfil its obligations under the seventh and ninth indents of point 1 of Annex V to that directive;
- (3) by not drawing up action plans for the 20 major railways listed in Annex A.3 to the application, the Republic of Poland has failed to fulfil its obligations under Article 8(2) of Directive 2002/49;
- (4) by not drawing up action plans for the 290 major roads listed in Annex A.4 to the application, the Republic of Poland has failed to fulfil its obligations under Article 8(2) of Directive 2002/49; and
- (5) by not presenting summaries of the action plans for the 20 major railways listed in Annex A.3 to the application and the 290 major roads listed in Annex A.4 to the application, the Republic of Poland has failed to fulfil one of its obligations under Article 10(2) of Directive 2002/49, read in conjunction with Annex VI thereto;

— order the Republic of Poland to pay the costs.

Pleas in law and main arguments

By its first plea in law, the Commission alleges that introducing a requirement whereby action plans for areas where permissible noise levels are not exceeded are to be drawn up no later than 18 July 2024 does not guarantee adequate protection of those areas and results in the Republic of Poland not fulfilling its obligations of drawing up action plans designed to manage, within its territory, noise issues and effects, including noise reduction; a situation which is incompatible with Article 8(1) and (2) of Directive 2002/49. The objectives of that directive relating to avoiding and preventing the harmful effects of environmental noise and preserving environmental noise quality can be achieved only if action plans are also designed for areas where noise limits are not exceeded.

By its second plea in law, the Commission alleges a failure to ensure in Polish law that the environmental protection programme also refers to measures whose objective is to preserve quiet areas, as required by Directive 2002/49. Polish law does not meet that requirement. Furthermore, Polish law does not introduce a requirement whereby presenting a record of the public consultations organised in accordance with Article 8(7) of Directive 2002/49 is a mandatory element of an action plan. Article 119a(5) of the *ustawa Prawo ochrony środowiska* (Law on the protection of the environment) requires only that the *Marszałek* (head of local government) responsible for the area or areas concerned conduct public consultations in accordance with the relevant provisions. However, there is no legal obligation to take into account a record of those public consultations in an action plan.

By its third plea in law, the Commission alleges a failure, by Poland, to draw up action plans for the 20 major railways previously notified to the Commission by Poland as major railways, resulting in the infringement, by Poland, of Article 8(2) of Directive 2002/49.

By its fourth plea in law, the Commission alleges a failure, by Poland, to draw up action plans for the 290 major roads previously notified to the Commission by Poland as major roads, resulting in the infringement, by Poland, of Article 8(2) of Directive 2002/49.

By its fifth plea in law, the Commission alleges a failure, by Poland, to present summaries of the action plans for those 20 major railways and 290 major roads, the result of which is an infringement of Article 10 of Directive 2002/49.

(¹) OJ 2002 L 189, p. 12.