

**Parties to the main proceedings**

*Applicant:* B2 Energy s.r.o.

*Defendant:* Odvolací finanční ředitelství

**Question referred**

Must Article 138(1) of Council Directive 2006/112/EC <sup>(1)</sup> of 28 November 2006 on the common system of value added tax be interpreted in accordance with the judgment of the Court of Justice of the European Union of 9 December 2021 in Case C-154/20, *Kemwater ProChemie*, EU:C:2021:989, such that a claim for exemption from value added tax (VAT) upon the supply of goods to another EU Member State must be denied, without the tax authorities needing to prove that the supplier of the goods was involved in VAT fraud, if the supplier has failed to prove supply of goods to a specific recipient indicated in the tax documents and having the status of a taxable person in the other Member State, even though, with a view to the facts of the case and the information provided by the taxable person, there is data available to verify that the actual recipient in the other EU Member State did indeed have that status?

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

---

**Action brought on 4 November 2022 — European Commission v Ireland**

(Case C-679/22)

(2023/C 45/14)

*Language of the case: English*

**Parties**

*Applicant:* European Commission (represented by: U. Małecka, L. Malferrari, E. Manhaeve, L. Armati, Agents)

*Defendant:* Ireland

**The applicant claims that the Court should:**

- declare that, by failing to adopt (all) the laws, regulations and administrative provisions necessary to comply with Directive (EU) 2018/1808 <sup>(1)</sup> of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU <sup>(2)</sup> on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities; or, in any event, by failing to communicate them to the Commission, Ireland has failed to fulfil its obligations under Article 2 of the Directive;
- order Ireland to pay to the Commission a lump sum based on a daily amount of EUR 5 544,9 per day with the minimum lump sum of EUR 1 376 000.
- if the failure to fulfil obligations found in paragraph 1 has continued until the date of delivery of the judgment in the present proceedings, order Ireland to pay to the Commission a penalty payment of EUR 33 257,2 per day from the date of the judgment in the present proceedings to the date of compliance with its obligations under the Directive; and
- order Ireland to pay the costs.

**Pleas in law and main arguments**

Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amends Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities. Both the 2010 and 2018 Directives harmonise national legislation concerning audiovisual media traditional TV broadcasts and on-demand services. The 2018 Directive provides rules to shape technological developments and creates a level playing field for emerging audiovisual media.

By letter of 20 November 2020, the Commission addressed a letter of formal notice in circumstances where the Commission had not received from Ireland any notification concerning the adoption of the necessary provisions to comply with the Directive. By letter of 23 September 2021, in the absence of any further notification regarding the transposition of the Directive, the Commission sent a reasoned opinion to Ireland. Nevertheless, the transposing measures have not yet been adopted by Ireland and, in any event, they have not been notified to the Commission.

<sup>(1)</sup> OJ 2018, L 303, p. 69.

<sup>(2)</sup> Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (OJ 2010, L 95, p. 1).

---

**Request for a preliminary ruling from the Nejvyšší soud (Czech Republic) lodged on 15 November 2022 — RegioJet a. s., STUDENT AGENCY k.s. v České dráhy, a.s., Správa železnic, státní organizace, Česká republika, Ministerstvo dopravy**

(Case C-700/22)

(2023/C 45/15)

*Language of the case: Czech*

**Referring court**

Nejvyšší soud

**Parties to the main proceedings**

*Applicants:* RegioJet a. s., STUDENT AGENCY k.s.

*Defendants:* České dráhy, a.s., Správa železnic, státní organizace, Česká republika, Ministerstvo dopravy

**Question referred**

Must the last sentence of Article 108(3) of the Treaty on the Functioning of the European Union be interpreted as meaning that a national court must, in proceedings initiated on the application of a third party (competitor), order the recipient to return aid provided in breach of that provision even though (as at the date of the court's decision) the limitation period for the Commission's powers pursuant to Article 17(1) of Council Regulation (EU) 2015/1589 <sup>(1)</sup> of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union has expired, due to which the aid provided is deemed, pursuant to Article 1(b)(iv) and Article 17(3) of the Regulation, to constitute existing aid?

<sup>(1)</sup> OJ 2015 L 248, p. 9.

---

**Request for a preliminary ruling from the Sąd Najwyższy (Poland) lodged on 18 November 2022 — Advance Pharma sp. z o.o. v The Treasury — Chief Pharmaceuticals Inspector**

(Case C-711/22)

(2023/C 45/16)

*Language of the case: Polish*

**Referring court**

Sąd Najwyższy

**Parties to the main proceedings**

*Applicant:* Advance Pharma sp. z o.o.

*Defendant:* The Treasury — Chief Pharmaceuticals Inspector