

Action brought on 7 February 2018 — European Commission v Grand Duchy of Luxembourg**(Case C-87/18)**

(2018/C 161/22)

*Language of the case: French***Parties**

Applicant: European Commission (represented by: P. Ondrůšek, F. Thiran, G. von Rintelen, acting as Agents, acting as Agent (s))

Defendant: Grand Duchy of Luxembourg

Form of order sought

The applicant claims that the Court should:

- Declare that, by failing to bring into force by 18 April 2016 at the latest the laws, regulations and administrative provisions necessary to comply with Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ 2014 L 94, p. 65) or, in any event, by failing to communicate to the Commission those provisions, the Grand Duchy of Luxembourg has failed to fulfil its obligations under Article 90(1) of that directive;
- Impose on the Grand Duchy of Luxembourg, in accordance with Article 260(3) TFEU, a penalty payment of EUR 11 628 per day as of the date of delivery of the judgment in the present case for failure to fulfil its obligation to communicate to the Commission the measures transposing Directive 2014/24/EU;
- Order the Grand Duchy of Luxembourg to pay the costs.

Pleas in law and main arguments

1. Under Article 90(1) of Directive 2014/24/EU, the Member States were required to bring into force the provisions necessary to comply with that directive by 18 April 2016 at the latest. Given that Luxembourg has not communicated the measures transposing the directive, the Commission has decided to refer the matter to the Court of Justice.
2. The Commission in its action proposes that a daily penalty payment of EUR 11 628 be imposed on Luxembourg. The amount of the penalty payment has been calculated to take into account the seriousness and the duration of the infringement and the penalty payment's dissuasive effect, in the light of that Member State's capacity to pay it.

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Applicant: European Commission (represented by: P. Ondrůšek, F. Thiran, G. von Rintelen, acting as Agents)

Defendant: Grand Duchy of Luxembourg

Form of order sought

The applicant claims that the Court should:

- Declare that, by failing to bring into force by 18 April 2016 at the latest the laws, regulations and administrative provisions necessary to comply with Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ 2014 L 94, p. 243) or, in any event, by failing to communicate to the Commission those provisions, the Grand Duchy of Luxembourg has failed to fulfil its obligations under Article 106(1) of that directive;
- Impose on the Grand Duchy of Luxembourg, in accordance with Article 260(3) TFEU, a penalty payment of EUR 11 628 per day as of the date of delivery of the judgment in the present case for failure to fulfil its obligation to communicate to the Commission the measures transposing Directive 2014/25/EU;
- Order the Grand Duchy of Luxembourg to pay the costs.

Pleas in law and main arguments

1. Under Article 106(1) of Directive 2014/25/EU, the Member States were required to bring into force the provisions necessary to comply with that directive by 18 April 2016 at the latest. Given that Luxembourg has not communicated the measures transposing the directive, the Commission has decided to refer the matter to the Court of Justice.
2. The Commission in its action proposes that a daily penalty payment of EUR 11 628 be imposed on Luxembourg. The amount of the penalty payment has been calculated to take into account the seriousness and the duration of the infringement and the penalty payment's dissuasive effect, in the light of that Member State's capacity to pay it.

Request for a preliminary ruling from the Hoge Raad der Nederlanden (Netherlands) lodged on 9 February 2018 — Sociale Verzekeringsbank; other parties: F. van den Berg and H.D. Giesen

(Case C-95/18)

(2018/C 161/24)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Appellant: Sociale Verzekeringsbank (Svb)

Other parties: F. van den Berg and H.D. Giesen

Questions referred

1. (a) Must Articles 45 TFEU and 48 TFEU be interpreted as meaning that, in cases such as those at issue here, those provisions preclude a national rule such as Article 6a, introductory sentence and (b), of the AOW? ⁽¹⁾ That rule means that a resident of the Netherlands is not insured for purposes of the social security scheme of that State of residence if that resident works in another Member State and is subject to the social security legislation of the State of employment on the basis of Article 13 of Regulation No 1408/71. ⁽²⁾ The present cases are characterised by the fact that, on the basis of the legislation of the State of employment, the persons concerned do not qualify for an old-age pension because of the limited scope of their work there.