

**Request for a preliminary ruling from the Najvyšší súd Slovenskej republiky (Slovakia) lodged on 7 June 2018 — Slovenské elektrárne a.s. v Daňový úrad pre vybrané daňové subjekty**

(Case C-376/18)

(2018/C 285/47)

*Language of the case: Slovak*

**Referring court**

Najvyšší súd Slovenskej republiky

**Parties to the main proceedings**

*Applicant:* Slovenské elektrárne a.s.

*Defendant:* Daňový úrad pre vybrané daňové subjekty

**Questions referred**

1. Must Directive 2009/72/EC <sup>(1)</sup> of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC ('Third Electricity Directive') be interpreted as meaning that national legislation, such as that at issue in the main proceedings, which establishes a special measure consisting of a compulsory levy on regulated entities, including the holders of an authorisation to supply electricity granted by the competent regulatory authority of the Member State concerned ('the regulated entity' and 'the Office' respectively), set in accordance with the financial performance which they achieved not only at national level but also from activity abroad, is contrary to the objective thereof, and in particular Article 3 thereof, where that levy
  - (i) affects the freedom of regulated entities to set a fully competitive price for the supply of electricity on foreign electricity markets, and thus also the competitive process on those markets;
  - (ii) reduces the competitiveness of the regulated entities in comparison with foreign electricity suppliers operating on the Slovak electricity market where both supply electricity to a particular foreign market since the foreign operator is not subject to such a compulsory levy in respect of the supply of electricity abroad;
  - (iii) discourages new competitors from entering the electricity supply market in the Slovak Republic and abroad since such a compulsory levy would apply equally to revenue from their non-regulated activities even if, subsequently during a particular period, they were to hold an authorisation to supply electricity but the revenue they received from that supply was zero; and
  - (iv) may induce Slovak regulated entities to ask the [Slovak] Office — or foreign electricity suppliers to ask the regulatory authority of the respective State of origin which issued them — to revoke the authorisation to supply electricity since for an entity who does not wish the proceeds from its other activities to be subject to the levy in question, revocation of that authorisation is the only way of ridding itself of the status of regulated entity laid down by the legislation at issue?
2. Must the Third Electricity Directive be interpreted as meaning that it is not possible to include among the measures which the Third Electricity Directive permits a Member State to adopt, even where they conflict with the objective which the directive pursues, a special measure, such as that at issue in the main proceedings, consisting of a compulsory levy on regulated entities, including the holders of an authorisation to supply electricity granted by the Office, set in accordance with their financial performance, including performance from activity abroad, given that that measure does not constitute a tool to combat climate change and does not serve to guarantee the supply of electricity or pursue any other objective of the Third Electricity Directive?

3. Must the Third Electricity Directive be interpreted as meaning that national law, such as that at issue in the main proceedings, which establishes a special measure consisting of a compulsory levy on regulated entities, including the holders of an authorisation to supply electricity granted by the Office, set in accordance with their financial performance, including performance achieved from activity abroad, fails to satisfy the requirements relating to transparency [Or. 3], non-discrimination and equality of access to consumers as provided for in Article 3 of the directive since — in the case of a regulated entity — it also affects revenue obtained (from the supply of electricity or other means) abroad whereas — in the case of the holder of an authorisation to provide energy on the basis of a ‘passport’ authorisation to supply electricity granted in the relevant State of origin — it affects only the revenue obtained in the Slovak Republic?

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(<sup>1</sup>) OJ 2009 L 211, p. 55.

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**Action brought on 8 June 2018 — European Commission v Kingdom of Belgium**

**(Case C-384/18)**

(2018/C 285/48)

*Language of the case: French*

**Parties**

*Applicant:* European Commission (represented by: H. Tserepa-Lacombe and L. Malferrari, acting as Agents)

*Defendant:* Kingdom of Belgium

**Form of order sought**

— Find that the Kingdom of Belgium has failed to fulfil its obligations under Article 25 of Directive 2006/123/EC (<sup>1</sup>) and Article 49 TFEU;

— Order the Kingdom of Belgium to pay the costs.

**Pleas in law and main arguments**

By (i) prohibiting the joint exercise of work as accountants, on the one hand, and as brokers, insurance agents, estate agents or all banking and financial services work, on the other, and by (ii) permitting the Chambers of the Institut Professionnel des Comptables et Fiscalistes Agréés (Institute of Accounting professionals and Tax Experts; IPCF) to prohibit the joint exercise of work as accountants, on the one hand, with any craft or commercial agricultural activity, on the other, the Kingdom of Belgium has failed to fulfil its obligations under Article 25 of Directive 2006/123/EC and Article 49 TFEU.

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(<sup>1</sup>) Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (OJ 2006 L 376, p. 36).

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**Action brought on 29 June 2018 — European Commission v Italian Republic**

**(Case C-434/18)**

(2018/C 285/49)

*Language of the case: Italian*

**Parties**

*Applicant:* European Commission (represented by: M. Patakia and G. Gattinara, acting as Agents)

*Defendant:* Italian Republic