



C/2023/188

23.10.2023

Judgment of the Court (First Chamber) of 7 September 2023 — European Commission v Republic of Poland

(Case C-601/21) ⁽¹⁾

(Failure of a Member State to fulfil obligations — Public contracts for services contracts — State printing office — Production of identity documents and other official documents as well as systems for managing such documents — National legislation providing for the award of contracts for such production to a public undertaking without first conducting a procurement procedure — Article 346(1)(a) TFEU — Directive 2014/24/EU — Article 1(1) and (3) — Article 15(2) and (3) — Special security measures — Protection of a Member State's essential security interests)

(C/2023/188)

Language of the case: Polish

Parties

Applicant: European Commission (represented initially by: P. Ondrůšek, M. Siekierzyńska, A. Stobiecka-Kuik and G. Wils, and subsequently by: G. Gattinara, P. Ondrůšek, A. Stobiecka-Kuik and G. Wils, acting as Agents)

Defendant: Republic of Poland (represented by: B. Majczyna, E. Borawska-Kędzierska and M. Horoszko, acting as Agents)

Operative part of the judgment

The Court:

1. Declares that, by adding to Polish legislation exemptions not provided for in 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, in so far as concerns the contracts relating to the production, on the one hand, of the public documents referred to in Article 4(5c) of the *ustawa Prawo zamówień publicznych* (Law on public procurement) of 29 January 2004, as amended by the *ustawa o dokumentach publicznych* (Law on public documents) of 22 November 2018, with the exception of the personal documents of members of the military and their identity cards, the service cards of police officers, border guards, State security agents, officers of the Internal Security Agency, officers of the Intelligence Agency, officers of the Military Counterintelligence Service and professional soldiers appointed to a post in that service, officers of the Military Intelligence Service and professional soldiers appointed to a post in that service, and members of the military police and, on the other hand, of excise stamps, legal markings, control stickers, ballot papers, holographic signs on certificates of voting rights and microprocessor systems with software for the management of public documents, computer systems and databases necessary for the use of public documents, also referred to in Article 4(5c), the Republic of Poland has failed to fulfil its obligations under Article 1(1) and (3) and Article 15(2) and (3) of Directive 2014/24, read in conjunction with Article 346(1)(a) TFEU;
2. Dismisses the action as to the remainder;
3. Orders the Republic of Poland to bear its own costs and pay two thirds of the costs incurred by the European Commission;
4. Orders the European Commission to bear one third of its own costs.

⁽¹⁾ OJ C 490, 6.12.2021.