



Press and Information

Court of Justice of the European Union

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Judgments in Cases C-479/13 and C-502/13
Commission v France and Commission v Luxembourg

France and Luxembourg cannot apply a reduced rate of VAT to the supply of electronic books, in contrast with paper books

In France and in Luxembourg, the supply of electronic books is subject to a reduced rate of VAT. Accordingly, since 1 January 2012, France has applied a VAT rate of 5.5% and Luxembourg a rate of 3% to the supply of electronic books.

The digital or electronic books at issue include books supplied, for consideration, by download or web streaming ('streaming'), from a website so that they can be viewed on a computer, a smartphone, electronic book readers or other reading system.

The Commission has asked the Court to declare that, by applying a reduced rate of VAT to the supply of electronic books, France and Luxembourg have failed to fulfil their obligations under the VAT Directive.¹

In today's judgments, the Court upholds the Commission's action for failure to fulfil obligations.

The Court points out, first of all, that a reduced rate of VAT can apply only to supplies of goods and services covered by Annex III to the VAT Directive. That annex refers in particular to the 'supply of books ... on all physical means of support'. The Court concludes that the reduced rate of VAT is applicable to a transaction consisting of the supply of a book found on a physical medium. While admittedly, in order to be able to read an electronic book, physical support (such as a computer) is required, such support is not included in the supply of electronic books, meaning that Annex III does not include the supply of such books within its scope.

Moreover, the Court finds that the VAT Directive excludes any possibility of a reduced VAT rate being applied to 'electronically supplied services'. The Court holds that the supply of electronic books is such a service. The Court rejects the argument that the supply of electronic books constitutes a supply of goods (and not a supply of services). Only the physical support enabling an electronic book to be read could qualify as 'tangible property' but such support is not part of the supply of electronic books.

The Commission also criticises Luxembourg for applying a super-reduced VAT rate of 3%, even though the VAT Directive prohibits, in principle, VAT rates lower than 5%. The Court recalls that, according to the VAT Directive, a Member State may apply reduced VAT rates lower than 5%, provided that, among other things, the reduced rates are in accordance with EU legislation. Since the Court held earlier that the application of a reduced rate of VAT to the supply of electronic books does not comply with the VAT Directive, the requirement that it comply with EU legislation is not met with the result that Luxembourg cannot apply a super-reduced VAT rate of 3% to the supply of electronic books.

¹ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1).

The judgments delivered by the Court today do not prevent Member States from introducing a reduced rate of VAT for books on physical support, such as paper books.

NOTE: An action for failure to fulfil obligations directed against a Member State which has failed to comply with its obligations under European Union law may be brought by the Commission or by another Member State. If the Court of Justice finds that there has been a failure to fulfil obligations, the Member State concerned must comply with the Court's judgment without delay.

Where the Commission considers that the Member State has not complied with the judgment, it may bring a further action seeking financial penalties. However, if measures transposing a directive have not been notified to the Commission, the Court of Justice can, on a proposal from the Commission, impose penalties at the stage of the initial judgment.

Unofficial document for media use, not binding on the Court of Justice.

The full text of the judgments ([C-479/13](#) & [C-502/13](#)) is published on the CURIA website on the day of delivery.

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