

ECJ Preliminary Ruling Request: *E. sp. z o.o.* (Case C-453/23) – *Naczelny Sąd Administracyjny* Submits Referral on Weather Exemption of Railway Infrastructure from Tax on Immovable Property Available to Rail-Transport Operators Distorts Competition

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Naczelny Sąd Administracyjny (Supreme Administrative Court) made reference to the Court of Justice of the European Union (ECJ) on 19 July 2023 for a preliminary ruling in the case *E. sp. z o.o. v Prezydent Miasta Mielca* (Case C-453/23). The preliminary ruling request was published in the Official Journal of the European Union C/123/2023 on 16 October 2023.

Naczelny Sąd Administracyjny requested the ECJ to answer the following question:

In light of article 107(1) of the Treaty on the Functioning of the European Union, does the grant by a Member State of tax relief addressed to all operators, such as that provided for in article 7(1)(1)(a) of the *Ustawa z dnia 12 stycznia 1991 r. o podatkach i opłatach lokalnych* (Law of 12 January 2019 on local taxes and fees) (Dz.U. 2019, item 1170, as amended), consisting in an exemption from tax on immovable property for land, buildings and structures forming part of railway infrastructure within the meaning of the provisions on rail transport, which is made available to rail-transport operators, distort, or threaten to distort competition?

If the answer to Question 1 is in the affirmative, is an operator which has availed itself of the tax exemption pursuant to the abovementioned provision of national law, introduced without following the required procedure, as laid down in article 108(3) of the Treaty on the Functioning of the European Union, in conjunction with article 2 of Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of article 108 of the Treaty on the Functioning of the European Union, required to pay the outstanding tax, plus interest?

