



C/2024/2736

29.4.2024

Action brought on 23 February 2024 – European Commission v Hungary

(Case C-144/24)

(C/2024/2736)

Language of the case: Hungarian

Parties

Applicant: European Commission (represented by: L. Armati, M. Mataija and A. Tokár, acting as Agents)

Defendant: Hungary

Form of order sought

The Commission claims that the Court should:

1. declare that, by adopting the provisions of 404/2021. sz. Korm. rendelet (Government Decree No 404/2021) and of 405/2021. sz. Korm. Rendelet (Government Decree No 405/2021), on payment of the additional mining fee and on the minimum extraction volume, and by adopting 2021. évi CXXXVI. törvény (Law CXXXVI of 2021), which supplements bányászatról szóló 1993. évi XLVIII. törvény (Mining Law XLVIII of 1993) by inserting Paragraphs 27A, 27B and 27C, Hungary has failed to fulfil its obligations under Article 49 TFEU and Article 5(1) of Directive (EU) 2015/1535 on transparency in the single market; ⁽¹⁾
2. order Hungary to pay the costs.

Pleas in law and main arguments

The Commission asks the Court to declare that Hungary has breached the freedom of establishment enshrined in EU law and has infringed Directive 2015/1535 on transparency in the single market.

In 2021, the Hungarian Government approved two government decrees which established an official price below the market price for basic construction materials such as sand, gravel and cement. The undertakings that extract those materials – almost all of which are controlled by companies established in other Member States – must also pay an additional mining fee set at 90% of the difference between the official price and the sales price exceeding that official price. In addition, the undertakings to which the decrees apply are required to maintain a minimum level of extraction set by the Government, failing which they lose their mining permit.

Since those government decrees were approved for a transitional period – originally only for the duration of the COVID-19 outbreak – the Hungarian Parliament also amended the Mining Law at the same time and authorised the president of the competent supervisory authority to adopt similar measures.

In the Commission's view, those provisions breach the freedom of establishment enshrined in the TFEU, as they limit the possibility for persons and undertakings established in other Member States to continue to pursue or to begin pursuing in Hungary activities to which the abovementioned provisions apply. Furthermore, under Directive 2015/1535, Hungary should have communicated a draft of those provisions to the Commission, which it did not do.

⁽¹⁾ Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (OJ 2015 L 241, p. 1).