

Judgment of the Court (First Chamber) of 15 November 2012 — European Commission v Portuguese Republic

(Case C-34/11) ⁽¹⁾

(Failure of a Member State to fulfil obligations — Pollution control — Limit values for concentrations of PM10 in ambient air)

(2013/C 9/12)

Language of the case: Portuguese

Parties

Applicant: European Commission (represented by: P. Guerra e Andrade, A. Alcover San Pedro and S. Petrova, Agents)

Defendant: Portuguese Republic (represented by: L. Inez Fernandes and M.J. Lois, Agents)

Re:

Failure of a Member State to fulfil obligations — Infringement of Article 13 of Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe (OJ 2008 L 152, p. 1) — Limit values and alert thresholds for the protection of human health — Concentrations of PM₁₀ in ambient air

Operative part of the judgment

The Court:

1. Declares that, by having failed to ensure that, for the years 2005 to 2007, the daily concentrations of PM₁₀ in ambient air did not exceed the limit values set in Article 5(1) of Council Directive 1999/30/EC of 22 April 1999 relating to limit values for sulphur dioxide, nitrogen dioxide and oxides of nitrogen, particulate matter and lead in ambient air, in the zones and agglomerations of Braga, Porto Litoral, Área Metropolitana de Lisboa Norte and Área Metropolitana de Lisboa Sul, the Portuguese Republic has failed to fulfil its obligations under that provision;
2. Dismisses the action as to the remainder;
3. Orders the European Commission and the Portuguese Republic to bear their own costs.

⁽¹⁾ OJ C 103, 2.4.2011.

Judgment of the Court (Grand Chamber) of 13 November 2012 (reference for a preliminary ruling from the High Court of Justice (Chancery Division) — United Kingdom) — Test Claimants in the FII Group Litigation v Commissioners of Inland Revenue, The Commissioners for Her Majesty's Revenue & Customs

(Case C-35/11) ⁽¹⁾

(Articles 49 TFEU and 63 TFEU — Payment of dividends — Corporation tax — Case C-446/04 — Test Claimants in the FII Group Litigation — Interpretation of the judgment — Prevention of economic double taxation — Equivalence of the exemption and imputation methods — Meaning of 'tax rates' and 'different levels of taxation' — Dividends from third countries)

(2013/C 9/13)

Language of the case: English

Referring court

High Court of Justice (Chancery Division)

Parties to the main proceedings

Claimants: Test Claimants in the FII Group Litigation

Defendants: Commissioners of Inland Revenue, The Commissioners for Her Majesty's Revenue & Customs

Re:

Reference for a preliminary ruling — High Court of Justice (Chancery Division) — Interpretation of Articles 49 TFEU and 63 TFEU — Freedom of establishment — Free movement of capital — Tax legislation — Corporation tax — Interpretation of the Court's judgment of 12 December 2006 in Case C-446/04 *Test Claimants in the FII Group Litigation* — Meaning of 'tax rates' and 'different levels of taxation' — Tax rate to be taken into account for the purpose of determining whether the levels of taxation are the same for naturally-sourced and foreign-sourced dividends

Operative part of the judgment

1. Articles 49 TFEU and 63 TFEU must be interpreted as precluding legislation of a Member State which applies the exemption method to nationally-sourced dividends and the imputation method to foreign-sourced dividends if it is established, first, that the tax credit to which the company receiving the dividends is entitled under the imputation method is equivalent to the amount of tax actually paid on the profits underlying the distributed dividends and, second, that the effective level of taxation of company profits in the Member State concerned is generally lower than the prescribed nominal rate of tax.