



## Reports of Cases

### Case C-189/15

**Istituto di Ricovero e Cura a Carattere Scientifico (IRCCS) — Fondazione Santa Lucia**  
v  
**Cassa conguaglio per il settore elettrico and Others**

(Request for a preliminary ruling from the Consiglio di Stato)

(Reference for a preliminary ruling — Directive 2003/96/EC — Taxation of energy products and electricity — Tax reductions — Substantive scope — Incentives in respect of the amounts covering general electricity charges — Article 17 — Energy-intensive businesses — Incentives granted to such businesses in the manufacturing sector alone — Lawfulness)

Summary — Judgment of the Court (Ninth Chamber), 18 January 2017

*Tax provisions — Harmonisation of laws — Taxation of energy products and electricity — Directive 2003/96 — Tax reductions — Concept — Incentives granted under national law to energy-intensive businesses on the amounts covering general electricity charges — Included — Conditions — Verification by the national court — Incentives granted to such businesses in the manufacturing sector alone — Lawfulness*

*(Council Directive 2003/96, Art. 4(1))*

Article 17(1) of Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity must be interpreted as meaning that the concept of ‘tax reductions’ covers the incentives granted, under national law, to energy-intensive businesses, as defined in that provision, in respect of amounts, such as those at issue in the main proceedings, covering general electricity charges, subject to verification by the referring court of the facts and the rules of national law on which this answer from the Court is based.

Article 17(1) of Directive 2003/96 must be interpreted as not precluding national rules which provide for tax reductions on the consumption of electricity in favour of energy-intensive businesses, within the meaning of that provision, in the manufacturing sector alone. In accordance with Article 17(1)(a) of Directive 2003/96, provided the minimum levels of taxation prescribed in that directive are respected on average for each business, Member States may apply tax reductions on the consumption of electricity in favour of energy-intensive businesses. That provision also defines the concept of ‘energy-intensive business’ and states, in the context of that definition, that Member States may apply more restrictive criteria, such as sales value, process and sector definitions. It follows therefrom that, for the purposes of that provision, the Member States remain free to restrict the benefit of tax reductions for energy-intensive businesses to those in one or more industrial sectors. Consequently, that provision does not preclude national rules, such as those at issue in the main proceedings, which grant incentives in respect of the amounts covering general electricity charges to the manufacturing sector alone.

(see paras 44, 47-49, 52, operative part 1, 2)