

Action brought on 21 August 2017 — European Commission v Ireland**(Case C-504/17)**

(2017/C 347/29)

*Language of the case: English***Parties***Applicant:* European Commission (represented by: F. Tomat, J. Tomkin, Agents)*Defendant:* Ireland**The applicant claims that the Court should:**

- declare that by not ensuring the application of the minimum levels of taxation for motor fuels prescribed by Council Directive 2003/96/EC⁽¹⁾ of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity, Ireland has failed to fulfil its obligations under Articles 4 and 7 of that Directive;
- declare that by allowing the use of marked fuel for the purposes of propelling private pleasure craft, even where such fuel has not been subject to any exemption or reduction of excise duty, Ireland has failed to fulfil its obligations under Directive 95/60/EC⁽²⁾ of 27 November 1995 on fiscal marking of gas oils and kerosene;
- order Ireland to pay the costs.

Pleas in law and main arguments

The Commission considers that the system by which Ireland imposes and collects excise duties on fuel used to propel private pleasure craft is incompatible with its obligations under Council Directive 2003/96/EC (the 'Energy Taxation Directive') and Directive 95/60/EC (the 'Fiscal Marking Directive').

Concerning the payment of excise duties, it is apparent that only a very small minority of owners of pleasure-craft actually submit returns to pay the full rate of tax duty. The Commission further considers that permitting the sale of marked fuel for uses that are subject to a full rate of excise duty is fundamentally incompatible with the Fiscal Marking Directive. The obligation to mark fuel that has been subject to a reduced rate of excise duty is intended specifically to ensure that those fuels are readily distinguishable from fuel in respect of which full duty has been paid. However, the effect of the national measure is that where marked fuel is found in a tank of a private pleasure craft that has been refuelled in Ireland, it is not possible to determine by reference to the marking, whether or not the fuel used was subject to a full or discounted rate of excise duty.

⁽¹⁾ OJ 2003, L 283, p. 51.

⁽²⁾ OJ 1995, L 291, p. 46.

**Request for a preliminary ruling from the Conseil d'État (France) lodged on 21 August 2017 —
Google Inc. v Commission nationale de l'informatique et des libertés (CNIL)****(Case C-507/17)**

(2017/C 347/30)

*Language of the case: French***Referring court**

Conseil d'État