

Operative part of the judgment

1. The principle of non-discrimination, as provided for in Article 3(1) of Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC must be interpreted as not precluding national legislation establishing taxes on the production and storage of nuclear fuel and waste, such as those taxes at issue in the cases in the main proceedings, which apply only to electricity-generating undertakings using nuclear energy and the main objective of which is not to protect the environment but to increase the amount of revenue for the electricity financial system;
2. Article 3(2) of Directive 2009/72 must be interpreted as not precluding national legislation, such as that at issue in the cases in the main proceedings, when the environmental objective and the characteristics that define environmental taxes provided for in that legislation are not specified in the statutory provision having legislative force in that legislation.

⁽¹⁾ OJ C 182, 28.5.2018.

Judgment of the Court (Fifth Chamber) of 7 November 2019 (requests for a preliminary ruling from the Tribunal Supremo — Spain) — Asociación Española de la Industria Eléctrica (UNESA) (C-105/18), Energía de Galicia (Engasa) SA (C-106/18), Duerocanto SL (C-107/18), Corporación Acciona Hidráulica (Acciona) SLU (C-108/18), Associació de Productors i Usuaris d'Energia Elèctrica (C-109/18), José Manuel Burgos Pérez, María del Amor Guinea Bueno (C-110/18), Endesa Generación SA (C-111/18), Asociación de Empresas de Energías Renovables (APPA) (C-112/18), Parc del Segre SA, Electra Irache SL, Genhidro Generación Hidroeléctrica SL, Hicenor SL, Hidroeléctrica Carrascosa SL, Hidroeléctrica del Carrión SL, Hidroeléctrica del Pisuerga SL, Hidroeléctrica Santa Marta SL, Hyanor SL, Promotora del Rec dels Quatre Pobles SA (C-113/18) v Administración General del Estado

(Joined Cases C-105/18 to C-113/18) ⁽¹⁾

(Reference for a preliminary ruling — Polluter pays principle — Directive 2000/60/EC — Article 9(1) — Recovery of the costs of water services — Common rules for the internal market in electricity — Directive 2009/72/EC — Article 3(1) — Principle of non-discrimination — Article 107(1) TFEU — State aid — Tax on the use of inland waters for the production of electricity — Tax imposed only on hydroelectricity producers operating on inter-communities river basins)

(2020/C 10/08)

Language of the case: Spanish

Referring court

Tribunal Supremo

Parties to the main proceedings

Applicants: Asociación Española de la Industria Eléctrica (UNESA) (C-105/18), Energía de Galicia (Engasa) SA (C-106/18), Duerocanto SL (C-107/18), Corporación Acciona Hidráulica (Acciona) SLU (C-108/18), Associació de Productors i Usuaris d'Energia Elèctrica (C-109/18), José Manuel Burgos Pérez, María del Amor Guinea Bueno (C-110/18), Endesa Generación SA (C-111/18), Asociación de Empresas de Energías Renovables (APPA) (C-112/18), Parc del Segre SA, Electra Irache SL, Genhidro Generación Hidroeléctrica SL, Hicenor SL, Hidroeléctrica Carrascosa SL, Hidroeléctrica del Carrión SL, Hidroeléctrica del Pisuerga SL, Hidroeléctrica Santa Marta SL, Hyanor SL, Promotora del Rec dels Quatre Pobles SA (C-113/18)

Defendant: Administración General del Estado

Interveners: Iberdrola Generación SAU, Hidroeléctrica del Cantábrico SA

Operative part of the judgment

1. Article 191(2) TFEU and Article 9(1) of Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy must be interpreted as not precluding a tax on the use of inland waters for the production of electricity, such as the tax at issue in the cases in the main proceedings, which does not incentivise the efficient use of water, nor establish mechanisms for the preservation and protection of public water resources, the quantification of that tax being unconnected to the capacity to cause damage to those public water resources, as it is focused solely and exclusively on the income-generating capacity of hydroelectricity producers.
2. The principle of non-discrimination, as provided for in Article 3(1) of Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC, must be interpreted as not precluding a tax, such as the tax on the use of inland waters for the production of electricity at issue in the cases in the main proceedings, which exclusively affects hydroelectricity generators operating in river basins encompassing more than one autonomous community.
3. Article 107(1) TFEU must be interpreted as meaning that the fact that the tax on the use of inland waters for the production of electricity, at issue in the cases in the main proceedings, is not payable, first, by hydroelectricity producers operating within river basins encompassing a single autonomous community and, secondly, by producers of electricity from sources other than water, does not constitute State aid, within the meaning of that provision, in favour of those producers provided that the latter are not, in the light of the relevant reference framework and the objective pursued by that tax, in a comparable situation to that of hydroelectricity producers operating within river basins encompassing more than one autonomous community subject to that tax, which it is for the national court to determine.

(¹) OJ C 161, 7.5.2018.

Judgment of the Court (Grand Chamber) of 12 November 2019 (Request for a preliminary ruling from the Arbeidshof te Brussel — Belgium) — Zubair Haqbin v Federaal Agentschap voor de opvang van asielzoekers

(Case C-233/18) (¹)

(Reference for a preliminary ruling — Applicants for international protection — Directive 2013/33/EU — Article 20(4) and (5) — Serious breach of the rules of the accommodation centres as well as seriously violent behaviour — Scope of the Member States' right to determine the sanctions applicable — Unaccompanied minor — Reduction or withdrawal of material reception conditions)

(2020/C 10/09)

Language of the case: Dutch

Referring court

Arbeidshof te Brussel

Parties to the main proceedings

Applicant: Zubair Haqbin

Defendant: Federaal Agentschap voor de opvang van asielzoekers