

**Operative part of the judgment**

1. Article 9(2) of the Convention on access to information, public participation in decision-making and access to justice in environmental matters, signed in Aarhus (Denmark) on 25 June 1998 and approved on behalf of the European Community by Council Decision 2005/370/EC of 17 February 2005 must be interpreted as not precluding members of the ‘public’ which is referred to in Article 2(4) of that convention from having no access as such to justice for the purposes of challenging a decision which falls within the scope of Article 6 of that convention. However, Article 9(3) of that convention precludes such persons from not being able to have access to justice for the purposes of relying on more extensive rights to participate in the decision-making procedure which may be conferred on them solely by the national environmental law of a Member State;
2. Article 9(2) of the Convention on access to information, public participation in decision-making and access to justice in environmental matters, signed in Aarhus (Denmark) on 25 June 1998 and approved on behalf of the European Community by Decision 2005/370/EC must be interpreted as precluding the admissibility of the judicial proceedings to which it refers, brought by non-governmental organisations which are part of the ‘public concerned’ referred to in Article 2(5) of that convention, from being made subject to the participation of those organisations in the procedure preparatory to the contested decision, even though that condition does not apply where such organisations cannot reasonably be criticised for not having participated in that procedure. However, Article 9(3) of that convention does not preclude the admissibility of judicial proceedings to which it refers from being made subject to the participation of the applicant in the procedure preparatory to the contested decision, unless the applicant cannot reasonably be criticised, in the light of the circumstances of the case, for not having intervened in that procedure.

<sup>(1)</sup> OJ C 122, 1.4.2019.

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**Judgment of the Court (Fifth Chamber) of 14 January 2021 — European Commission v Italian Republic**

(Case C-63/19) <sup>(1)</sup>

*(Failure of a Member State to fulfil obligations — Article 258 TFEU — Directive 2003/96/EC — Taxation of energy products and electricity — Articles 4 and 19 — Regional law adopted by the autonomous region of a Member State — Contribution towards the purchase of petrol and diesel subject to excise duties — Article 6(c) — Exemption from or reduction of excise duty — Concept of ‘refunding all or part of’ the amount of taxation — No evidence of a link between that contribution and excise duties)*

(2021/C 72/05)

Language of the case: Italian

**Parties**

*Applicant:* European Commission (represented by: R. Lyal and F. Tomat, acting as Agents)

*Defendant:* Italian Republic (represented by: G. Palmieri, acting as Agent, and by G.M. De Socio, avvocato dello Stato)

*Intervener in support of the defendant:* Kingdom of Spain (represented by: S. Jiménez García and J. Rodríguez de la Rúa, acting as Agents)

**Operative part of the judgment**

The Court:

1. Dismisses the action;
2. Orders the European Commission to pay the costs;
3. Orders the Kingdom of Spain to bear its own costs.

<sup>(1)</sup> OJ C 112, 25.3.2019.