Reports of Cases

# Judgment of the Court (Sixth Chamber) of 25 March 2021 – Commission v Hungary (Excise duty on cigarettes)

**(Case C‑856/19)** [1]

(Failure of a Member State to fulfil obligations – Article 258 TFEU – Directive 2011/64/EU – Article 10(2) and (3) – Excise duty applied to manufactured tobacco – Rate of the overall excise duty on cigarettes lower than the prescribed minimum rate – Internal difficulties – Threat of serious disruption to public order – Duty of sincere cooperation)

1. *Member States – Obligations resulting from Union law – Failure to fulfil obligations – National system pleaded as justification – Not permissible*

   *(Art. 258 TFEU)*

   *(see paras 48, 49)*

2. *Tax provisions – Harmonisation of laws – Taxes other than turnover taxes which affect the consumption of manufactured tobacco – Directive 2011/64 – Application and collection, after the expiry of a transitional period, of a lower excise duty than that provided for in that directive – Not permissible – Justifications – None*

   *(Council Directive 2011/64, Art. 11(2))*

   *(see paras 51, 54, 64, 65, operative part 1)*

3. *Acts of the institutions – Directives – Periods for implementation – Extension of time limit which has proven insufficient – Procedure*

   *(Art. 288 TFEU)*

   *(see para. 55)*

4. *Member States – Obligations – Failure to fulfil obligations – Justification – Principle of sincere cooperation – Invocation by a Member State to preclude a finding of failure to fulfil obligations – Not permissible*

   *(Art. 258 TFEU)*

[1] OJ C 19, 20.1.2020.

*(see paras 57, 59)*

**Operative part**

The Court:

1. Declares that, by applying to cigarettes an overall excise duty of less than 60% of the weighted average retail selling price of cigarettes released for consumption and levying an excise duty of less than EUR 115 per 1 000 cigarettes, after the expiry of the transitional period granted until 31 December 2017, Hungary has failed to fulfil its obligations under Article 10(2) and (3) of Council Directive 2011/64/EU of 21 June 2011 on the structure and rates of excise duty applied to manufactured tobacco;

2. Orders Hungary to pay the costs.