

Operative part of the judgment

The Court:

1. Declares that,

- by failing to ensure that the daily limit value for PM10 was not exceeded systematically and persistently from 2005 to 2012 inclusive, in 2014 and again from 2017 to 2019 inclusive, in the EL0004 conurbation of Thessaloniki, the Hellenic Republic has failed to fulfil its obligations under Article 13(1) of, in conjunction with Annex XI to, Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008, on ambient air quality and cleaner air for Europe,

and

- by failing to adopt, from 11 June 2010, appropriate measures to ensure compliance with the limit values for PM10 concentrations in the EL0004 conurbation of Thessaloniki, the Hellenic Republic has failed to meet the obligations under Article 23(1) of Directive 2008/50/EC, read in conjunction with Annex XV to that directive, and in particular the obligation to ensure that air quality plans provide for appropriate measures to ensure that the duration of the exceedance of limit values is as short as possible.

2. Orders the Hellenic Republic to pay the costs.

⁽¹⁾ OJ C 128, 12.4.2021.

Judgment of the Court (Fifth Chamber) of 23 March 2023 (request for a preliminary ruling from the Oberlandesgericht Bamberg — Germany) — Criminal proceedings against MR

(Case C-365/21, ⁽¹⁾ Generalstaatsanwaltschaft Bamberg (Reservation in relation to the principle *ne bis in idem*))

(Reference for a preliminary ruling — Judicial cooperation in criminal matters — Convention implementing the Schengen Agreement — Article 54 — Principle *ne bis in idem* — Article 55(1)(b) — Exception to the application of the principle *ne bis in idem* — Offence against the security or other essential interests of the Member State — Article 50 of the Charter of Fundamental Rights of the European Union — Principle *ne bis in idem* — Article 52(1) — Limitations to the principle *ne bis in idem* — Compatibility of a national declaration providing for an exception to the principle *ne bis in idem* — Criminal organisation — Financial crime)

(2023/C 173/04)

Language of the case: German

Referring court

Oberlandesgericht Bamberg

Criminal proceedings against

MR

joined party: Generalstaatsanwaltschaft Bamberg

Operative part of the judgment

1. Consideration of the first question has disclosed no factor of such a kind as to affect the validity of Article 55(1)(b) of the Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders, signed in Schengen on 19 June 1990, which entered into force on 26 March 1995, in the light of Article 50 of the Charter of Fundamental Rights of the European Union.
2. Article 55(1)(b) of the Convention implementing the Schengen Agreement, read in conjunction with Article 50 and Article 52(1) of the Charter of Fundamental Rights of the European Union,

must be interpreted as not precluding the courts of a Member State from interpreting the declaration made by that Member State under Article 55(1) of that convention as meaning that, so far as concerns the offence of forming a criminal organisation, that Member State is not bound by the provisions of Article 54 of that convention where the criminal organisation in which the person prosecuted participated has engaged exclusively in financial crime, in so far as the prosecution of that person is, in the light of the actions of that organisation, intended to punish harm to the security or other equally essential interests of that Member State.

⁽¹⁾ OJ C 320, 9.8.2021.

Judgment of the Court (Fourth Chamber) of 23 March 2023 (request for a preliminary ruling from the Tribunalul Satu Mare — Romania) — Dual Prod SRL v Direcția Generală Regională a Finanțelor Publice Cluj-Napoca — Comisia regională pentru autorizarea operatorilor de produse supuse accizelor armonizate

(Case C-412/21, ⁽¹⁾ Dual Prod)

(Reference for a preliminary ruling — Excise duties — Directive 2008/118/EC — Article 16(1) — Authorisation to operate as a tax warehouse for products subject to excise duty — Successive suspension measures — Whether criminal in nature — Articles 48 and 50 of the Charter of Fundamental Rights of the European Union — Principle of the presumption of innocence — Principle ne bis in idem — Proportionality)

(2023/C 173/05)

Language of the case: Romanian

Referring court

Tribunalul Satu Mare

Parties to the main proceedings

Applicant: Dual Prod SRL

Defendant: Direcția Generală Regională a Finanțelor Publice Cluj-Napoca — Comisia regională pentru autorizarea operatorilor de produse supuse accizelor armonizate

Operative part of the judgment

1. Article 48(1) of the Charter of Fundamental Rights of the European Union must be interpreted as precluding an authorisation to operate as a tax warehouse for products subject to excise duty from being suspended for administrative purposes, until the conclusion of criminal proceedings, on the sole ground that the holder of that authorisation has been formally charged in those criminal proceedings, if that suspension constitutes a criminal penalty.
2. Article 50 of the Charter of Fundamental Rights must be interpreted as not precluding a criminal penalty, for infringement of the rules on products subject to excise duty, from being imposed on a legal person who has already been subject, in respect of the same facts, to a criminal penalty that has become final, provided:
 - that the possibility of duplicating those two penalties is provided for by law;
 - that national legislation does not allow for proceedings and penalties in respect of the same facts on the basis of the same offence or in pursuit of the same objective, but provides for only the possibility of a duplication of proceedings and penalties under different legislation;
 - that those proceedings and penalties pursue complementary aims relating, as the case may be, to different aspects of the same unlawful conduct at issue;