

4. If the answer to this question is not unnecessary in the light of the answers to the foregoing questions, must Article 8(1) of Directive 98/34/EC be interpreted as meaning that a national provision such as that at issue in this dispute, which defines biofuel incorporation percentages, in transposition of Article 7a(2) of Directive 98/70/EC, introduced by Directive 2009/30/EC, may not be enforced as against an economic operator?

- (¹) Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations (OJ 1998 L 204, p. 37).
- (²) Directive 98/70/EC of the European Parliament and of the Council of 13 October 1998 relating to the quality of petrol and diesel fuels and amending Council Directive 93/12/EEC (OJ 1998 L 350, p. 58).
- (³) Directive 2009/30/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 98/70/EC as regards the specification of petrol, diesel and gas-oil and introducing a mechanism to monitor and reduce greenhouse gas emissions and amending Council Directive 1999/32/EC as regards the specification of fuel used by inland waterway vessels and repealing Directive 93/12/EEC (OJ 2009 L 140, p. 88).
- (⁴) Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (OJ 2009 L 140, p. 16).
- (⁵) Directive (EU) 2015/1513 of the European Parliament and of the Council of 9 September 2015 amending Directive 98/70/EC relating to the quality of petrol and diesel fuels and amending Directive 2009/28/EC on the promotion of the use of energy from renewable sources (OJ 2015 L 239, p. 1).

Request for a preliminary ruling from the Szegedi Törvényszék (Hungary) lodged on 4 October 2021 — Napfény-Toll Kft. v Nemzeti Adó — és Vámhivatal Fellebbviteli Igazgatósága

(Case C-615/21)

(2022/C 11/24)

Language of the case: Hungarian

Referring court

Szegedi Törvényszék

Parties to the main proceedings

Applicant: Napfény-Toll Kft.

Defendant: Nemzeti Adó — és Vámhivatal Fellebbviteli Igazgatósága

Question referred

Are the principles of legal certainty and of effectiveness, which form part of Community law, to be interpreted as not precluding legislation of a Member State which does not allow the courts to exercise any discretion, such as Paragraph 164(5) of the az adózás rendjéről szóló 2003. évi XCII. törvény (Law XCII of 2003 establishing a code of tax procedure; 'the former Code of Tax Procedure'), and the practice based on that legislation, under which, in matters of value added tax, the limitation period in respect of the right of the tax authorities to make a tax assessment is to be suspended for the whole duration of judicial review, regardless of the number of repeat administrative tax procedures, with no ceiling on the cumulative duration of the suspensions where there are several rounds of judicial review, one after another, including in cases where the court ruling on a decision of a tax authority taken as part of a repeat procedure following on from an earlier court decision finds that the tax authority failed to comply with the guidance contained in that court decision, that is to say, where it is due to the fault of that authority that the new court proceedings took place?

Action brought on 29 October 2021 — European Parliament v European Commission

(Case C-657/21)

(2022/C 11/25)

Language of the case: English

Parties

Applicant: European Parliament (represented by: R. Crowe, U. Rösslein, C. Burgos, Agents)

Defendant: European Commission

The applicant claims that the Court should:

- establish that, by failing to ensure the full and immediate application Regulation (EU, Euratom) 2020/2092 ⁽¹⁾ of the European Parliament and of the Council of 16 December 2020 on a general regime of conditionality for the protection of the Union budget, as from its date of application on 1 January 2021, the European Commission infringed the Treaties;
- in the alternative, annul the Commission's unlawful refusal to ensure the full and immediate application of Regulation 2020/2092, as from its date of application;
- order the Commission to pay the costs.

Pleas in law and main arguments

First plea in law, alleging infringement of the Commission's obligation under the second sentence of Article 17(1) TEU to ensure the application of the Treaties and of the measures adopted by the institutions pursuant to them.

The Commission is failing to apply Regulation 2020/2092 in full, since it unlawfully excludes itself from applying the core provisions of Article 6 of the regulation until after it has finalised guidelines on the application of the regulation, which it will do only after the judgments of the Court in the actions for annulment brought by two Member States against the regulation have been delivered. This failure to apply the regulation in full until the Court's judgments in the actions for annulment constitutes an infringement of the Commission's responsibilities under Article 17(1) TEU, which obliges it to ensure the application of the Treaties, and of measures adopted by the institutions pursuant to them.

Second plea in law, alleging infringement of the Commission's obligation under the third paragraph of Article 17(3) TEU to be completely independent in carrying out its responsibilities.

The Commission's failure to ensure the full and immediate application of the regulation, without self-imposed constraints, as from its date of application, pursuant to an instruction from the European Council, represents a violation of its obligation of independence under the third paragraph of Article 17(3) TEU.

Third plea in law, alleging infringement of Article 13(2) TEU and the principles of institutional balance and mutual sincere cooperation.

The Commission's failure to ensure the full and immediate application of the regulation, without self-imposed constraints, as from its date of application, pursuant to an instruction from the European Council, amounts to an infringement of Article 13(2) TEU, according to which each institution shall act within the limits of the powers conferred on it in the Treaties, as well as the principles of institutional balance and mutual sincere cooperation.

⁽¹⁾ OJ 2020, L 433I, p. 1.

Appeal brought on 5 November 2021 by MKB Multifunds BV against the order of the General Court (Eighth Chamber) delivered on 6 September 2021 in Case T-277/20, MKB Multifunds v Commission

(Case C-665/21 P)

(2022/C 11/26)

Language of the case: Dutch

Parties

Appellant: MKB Multifunds BV (represented by: J.M.M. van de Hel, R. Rampersad, advocaten)

Other parties to the proceedings: European Commission, Kingdom of the Netherlands

Form of order sought

MKB Multifunds respectfully requests the Court to:

- declare MKB Multifunds' appeal well founded and admissible;