



Reports of Cases

Judgment of the Court (Sixth Chamber) of 10 April 2014 — *Commission v Hungary*

(Case C-115/13)

(Failure of a Member State to fulfil obligations — Duties on alcohol and alcoholic beverages — Directive 92/83/EEC — Setting rates of excise duty — Customised production of ethyl alcohol in a distillery subject to a rate of excise duty equal to 0 — Exemption from excise duty for the production of ethyl alcohol by private individuals)

1. *Tax provisions — Harmonisation of laws — Excise duties — Directive 92/83 — Alcohol and alcoholic beverages — Exemptions from harmonised excise duty — Prohibition on the Member States to put derogating rules in place (Council Directive 92/83) (see para. 35)*
2. *Tax provisions — Harmonisation of laws — Excise duties — Directive 92/83 — Alcohol and alcoholic beverages — Exemptions from harmonised excise duty — Declarations made at the stage of the preparatory work and which are not adopted in the text — Not to be taken into account (Council Directive 92/83) (see paras 36, 37)*
3. *Tax provisions — Harmonisation of laws — Excise duties — Directive 92/83 — Alcohol and alcoholic beverages — Minimum rates — Exception laid down for a Member State — Scope (Council Directives 92/83, Arts 19 to 21 and 22(7), and 92/84, Art. 3(1)) (see paras 39, 40, 42)*
4. *Actions for failure to fulfil obligations — Right of the Commission to bring judicial proceedings — To be exercised at its discretion (Art. 258 TFEU) (see para. 46)*
5. *Tax provisions — Harmonisation of laws — Excise duties — Directive 92/83 — Alcohol and alcoholic beverages — National legislation exonerating the production of spirits from excise duty — Not permissible — Failure to fulfil obligations resulting from that directive (Council Directives 92/83, Arts 19 to 21 and 22(7), and 92/84 Art. 3(1)) (see paras 47, 49, operative part)*

Re:

Failure of a Member State to fulfil obligations — Infringement of Articles 19 to 21 of Council Directive 92/83/EEC of 19 October 1992 on the harmonisation of the structures of excise duties on alcohol and alcoholic beverages (OJ 1992 L 316, p. 21) read in conjunction with Article 22(7) of that directive, and Article 3(1) of Council Directive 92/84/EEC of 19 October 1992 on the approximation of the rates of

excise duty on alcohol and alcoholic beverages (OJ 1992 L 316, p. 29) — Setting excise duties — Customised production of ethyl alcohol in a distillery subject to a rate of excise duty equal to 0 — Exemption from excise duty for the production of ethyl alcohol by private individuals.

Operative part

The Court:

1. Declares that, by adopting and implementing legislation which provides that, under the conditions defined by that legislation, the customised production of ethyl alcohol in a distillery shall be subject to a rate of excise duty equal to 0 and that the production of ethyl alcohol by private individuals is exempt from excise duty, Hungary failed to fulfil its obligations under Articles 19 to 21 of Council Directive 92/83/EEC of 19 October 1992 on the harmonisation of the structures of excise duties on alcohol and alcoholic beverages, as amended by the of the Act concerning the conditions of accession to the European Union of the Republic of Bulgaria and Romania and the adjustments to the Treaties on which the European Union is founded, read in conjunction with Article 22(7) of that directive and with Article 3(1) of Council Directive 92/84/EEC of 19 October 1992 on the approximation of the rates of excise duty on alcohol and alcoholic beverages;
2. Orders Hungary to pay the costs.