Reports of Cases

JUDGMENT OF THE COURT (Third Chamber)

27 February 2014*

(Indirect taxes — Excise duties — Directive 92/12/EEC — Article 3(2) — Mineral oils — Tax on retail sales — Concept of 'specific purpose' — Transfer of powers to the Autonomous Communities — Financing — Predetermined allocation — Health-care and environmental expenditure)

In Case C-82/12,

REQUEST for a preliminary ruling under Article 267 TFEU from the Tribunal Superior de Justicia de Cataluña (Spain), made by decision of 29 November 2011, received at the Court on 16 February 2012, in the proceedings

Transportes Jordi Besora SL

v

Generalitat de Catalunya,

THE COURT (Third Chamber),

composed of M. Ilešič, President of the Chamber, C.G. Fernlund, A. Ó Caoimh (Rapporteur), C. Toader and E. Jarašiūnas, Judges,

Advocate General: N. Wahl,

Registrar: M. Ferreira, Principal Administrator,

having regard to the written procedure and further to the hearing on 26 June 2013,

after considering the observations submitted on behalf of:

— Transportes Jordi Besora SL, by C. Jover Ribalta and I. Mallol Bosch, abogadas,

— the Generalitat de Catalunya, by M. Nieto García and N. París Doménech, abogadas de la Generalitat,

— the Spanish Government, by N. Díaz Abad, acting as Agent,

— the Greek Government, by G. Papagianni, acting as Agent,

— the French Government, by J.-S. Pilczer, acting as Agent,

— the Portuguese Government, by A. Cunha, L. Inez Fernandes and R. Collaço, acting as Agents,

* Language of the case: Spanish.

— the European Commission, by W. Mölls and J. Baquero Cruz, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 24 October 2013,

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Article 3(2) of Council Directive 92/12/EEC of 25 February 1992 on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products (OJ 1992 L 76, p. 1).

2 The request has been made in proceedings between Transportes Jordi Besora SL ('TJB') and the Generalitat de Catalunya concerning a decision of the Oficina Gestora de Impuestos Especiales de Tarragona (the Tarragona Management Office for Excise Duties, 'the Management Office for Excise Duties') refusing to grant TJB a refund of the tax on retail sales of certain hydrocarbons (Impuesto sobre las Ventas Minoristas de Determinados Hidrocarburos, 'the IVMDH').

Legal context

European Union law

3 In the words of Article 3(1) and (2) of Directive 92/12:

'1. This Directive shall apply at Community level to the following products as defined in the relevant Directives:

— mineral oils,

…

2. The products listed in paragraph 1 may be subject to other indirect taxes for specific purposes, provided that those taxes comply with the tax rules applicable for excise duty and VAT purposes as far as determination of the tax base, calculation of the tax, chargeability and monitoring of the tax are concerned.'

Spanish law

4 By Article 9 of Law No 24/2001 of 27 December 2001 on measures of a fiscal, administrative or social nature (Ley 24/2001 de Medidas Fiscales, Administrativas y del Orden Social; BOE No 313 of 31 December 2001, p. 50493), as amended by Article 7 of Law No 53/2002 of 30 December 2002 on measures of a fiscal, administrative or social nature (Ley 53/2002 de Medidas Fiscales, Administrativas y del Orden Social; BOE No 313 of 31 December 2002, p. 46086) ('Law No 24/2001'), the Spanish legislature established the IVMDH and that tax came into force on 1 January 2002.

5 Points 1 to 3 of Article 9(1) of Law No 24/2001 are worded as follows:

'1. The [IVMDH] is an indirect tax levied upon the consumption [of certain hydrocarbons] being charged at a single stage on retail sales of the products within its material scope, in accordance with the provisions of the present Law.

2. The transfer of the tax to the Autonomous Communities shall be regulated by the provisions set out in the rules governing the transfer of State taxes to the Autonomous Communities and the scope and conditions of application of transfer in each of the Autonomous Communities shall be set out in their respective law on transfer.

3. The revenue from the present tax shall be allocated in its entirety to the financing of expenditure on health matters, in accordance with objective criteria laid down at national level. Notwithstanding the foregoing, that part of the revenue which derives from the tax rates set by the Autonomous Communities may be allocated for the financing of environmental measures, which shall also be subject to the same objective criteria.'

6 Under Article 9(3) of that law, the hydrocarbons that fall within the scope of the IVMDH are, inter alia, petrol, diesel, heavy fuel oil and kerosene not used as heating fuel.

7 Point 1 of Article 9(4) of Law No 24/2001 defines 'retail sales' as being the following transactions:

'(a) sales and deliveries of the products falling within the material scope, intended for direct consumption by the purchasers. In any event, sales made in the establishments for retail sales to the public referred to in point 2(a) below shall be regarded as 'retail sales' irrespective of the use to which the purchasers put the purchased products;

(b) imports and intra-Community purchases of the products falling within the material scope where they are intended directly for consumption by the importer or purchaser in his own establishment.'

8 Article 9(8) of Law No 24/2001 lays down when the IVMDH is chargeable as follows:

'1. The tax shall become chargeable when the products within its material scope are made available to purchasers or, as the case may be, at the time of personal consumption, provided that the suspension arrangements referred to in Article 4(20) of Law No 38/1992 of 28 December 1992 on excise duties have been discharged.

2. In the case of the imports referred to in point 1(b) of [Article 9(4)], the tax shall be chargeable when the products falling within the material scope are made available to the importers, provided that the importation with a view to consumption of the products has been completed and the suspension arrangements referred to in Article 4(20) of Law No 38/1992 have been discharged.'

9 Article 9(9) of Law No 24/2001 states, inter alia, that the tax base is to be determined by reference to the volume of the products subject to the tax.

10 Article 9(10) of that law defines the tax rate in the following manner:

'1. The rate of tax applicable to each taxable product shall result from adding the tax rates of the State and [the corresponding Autonomous Community].

2. The State tax rate shall be the following:

…

3. The Autonomous [Community] rate shall be that which is approved by the Autonomous Community concerned, in accordance with the requirements laid down in [Law No 21/2001 of 27 December 2001] regulating the fiscal and administrative measures for the new system of financing of Autonomous Communities and Cities with a Statute of Autonomy (Ley 21/2001, por la que se regulan las medidas fiscales y administrativas del nuevo sistema de financiación de las

Comunidades Autónomas de Régimen Común y Ciudades con Estatuto de Autonomía; BOE No 313 of 31 December 2001, p. 50383). If an Autonomous Community has not approved any rate, only the rate as determined by the State shall be applicable.

…'

11 Article 9(11) of Law No 24/2001 provides that taxable persons have to pass on the amounts of tax payable to the purchasers of the products, who are required to bear those amounts, except where the taxable person is the final consumer of those products.

12 The IVMDH was transferred to the Autonomous Communities pursuant to Law No 21/2001.

13 The Autonomous Community rate of IVMDH applicable in the Autonomous Community of Catalonia from 1 August 2004 is laid down in Law No 7/2004 of 16 July 2004 on fiscal and administrative measures (Ley 7/2004 de medidas fiscales y administrativas; BOE No 235 of 29 September 2004, p. 32391).

The dispute in the main proceedings and the questions referred for a preliminary ruling

14 TJB, a haulage company established in the Autonomous Community of Catalonia, paid, as final consumer, a total of EUR 45 632.38 in respect of the IVMDH payable for the tax years 2005 to 2008.

15 On 30 November 2009, TJB submitted a request for a refund of that amount to the Management Office for Excise Duties, on the ground that the IVMDH is, according to TJB, contrary to Article 3(2) of Directive 92/12, since that tax pursues a purely budgetary objective and complies with neither the scheme of European Union VAT legislation nor that of excise duties so far as concerns its chargeability.

16 By decision of 1 December 2009, that request was rejected by the Management Office for Excise Duties.

17 By decision of 10 June 2010, the Tribunal Económico-Administrativo Regional de Cataluña (Regional Economic Administrative Court of Catalonia) dismissed the complaint lodged by TJB against that decision.

18 The Tribunal Superior de Justicia de Cataluña (High Court of Justice of Catalonia), seised of an appeal against that decision, is unsure whether the IVMDH is compatible with Article 3(2) of Directive 92/12. In particular, it is uncertain whether that tax may be regarded as having a specific purpose within the meaning of that provision since it is intended to finance the new powers transferred to the Autonomous Communities in the field of health – and, where relevant, environmental expenditure – in circumstances where the excise duty established under that directive is already directed at protecting health and the environment. The referring court observes, in addition, that the rules relating to chargeability of the IVMDH do not comply with the rules relating to excise duties, since the IVMDH is chargeable on sale to the final consumer, nor do they comply with those relating to VAT, since the IVMDH is not charged at each stage of production and distribution.

19 In those circumstances, the Tribunal Superior de Justicia de Cataluña decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

'1. Is it the case that Article 3(2) of [Directive 92/12] and, in particular, the requirement of a "specific purpose" for a particular tax

(a) must be interpreted as requiring that the purpose pursued is not capable of being achieved by means of another harmonised tax?

(b) must be interpreted as meaning that there is a purely budgetary purpose when a particular tax has been established simultaneously with the transfer of certain competences to certain Autonomous Communities to which, in turn, are transferred the revenue from the tax with the aim of covering, in part, the costs associated with the competences transferred, it being permissible to lay down rates of tax that vary between Autonomous Communities?

(c) If the previous question is answered in the negative, must the term "specific purpose" be interpreted as meaning that the purpose must be exclusive or, on the contrary, that it permits the attainment of various differentiated aims, among which is also included the merely budgetary aim of obtaining financing for certain competences?

(d) If the answer to the previous question is that the attainment of various aims is permitted, what degree of relevance must be displayed by a particular objective, for the purposes of Article 3(2) of Directive 92/12, in order to fulfil the requirement that the tax should meet a "specific purpose" in the sense accepted by the case-law of the Court of Justice and what would be the criteria for defining the principal purpose as compared with the ancillary purpose?

2. Does Article 3(2) of [Directive 92/12] and, in particular, the condition of complying with the tax rules applicable to excise duties or VAT for the determination of chargeability,

(a) preclude an indirect non-harmonised tax (such as the IVMDH) which becomes chargeable at the time of the retail sale of the fuel to the final consumer, in contrast to the harmonised tax (tax on hydrocarbons, which becomes chargeable when the products leave the last tax warehouse) or VAT (which, although also becoming chargeable at the time of the final retail sale, is payable at each stage of the production and distribution process), on the basis that it does not – to use the terms of the judgment in Case C-437/97 *EKW and Wein & Co* [2000] ECR I-1157, paragraph 47 – accord with the general scheme of one or other of the abovementioned taxation techniques as structured by [Community] legislation?

(b) In the event that the foregoing question is answered in the negative, must [that provision be interpreted as meaning that] the said compliance condition is fulfilled, without the need for any coinciding of the effects of the chargeability, on account of the mere circumstance that the non-harmonised indirect tax (in this case, the IVMDH) does not disrupt – in the sense that it does not impede or render difficult – the normal functioning of the chargeability of excise duties or VAT?'

Consideration of the questions referred

20 By its questions, which it is appropriate to examine together, the referring court asks, in essence, whether Article 3(2) of Directive 92/12 must be interpreted as precluding national legislation that establishes a tax on the retail sale of mineral oils such as the IVMDH at issue in the main proceedings.

21 Article 3(2) of Directive 92/12 provides that mineral oils may be subject to indirect taxation other than the excise duty established by that directive if, first, the tax pursues one or more specific purposes and if, secondly, it complies with the tax rules applicable for excise duty or VAT purposes as far as determination of the tax base, calculation of the tax, chargeability and monitoring of the tax are concerned (see *EKW and Wein & Co*, paragraph 30).

22 Those two conditions, which are intended to prevent additional indirect taxes from improperly obstructing trade (Case C-434/97 *Commission* v *France* [2000] ECR I-1129, paragraph 26, and *EKW and Wein & Co*, paragraph 46), are cumulative, as is apparent from the very wording of that provision.

23 As regards the first of those conditions, it is apparent from the case-law of the Court that a specific purpose within the meaning of Article 3(2) of Directive 92/12 is a purpose other than a purely budgetary purpose (see *Commission* v *France*, paragraph 19; *EKW and Wein & Co*, paragraph 31; and Case C-491/03 *Hermann* [2005] ECR I-2025, paragraph 16).

24 In the present case, it is established that the revenue from the IVMDH has been allocated to the Autonomous Communities in order to finance the exercise by them of certain of their powers. As is apparent from the information available to the Court, the tax rate of the IVMDH is the sum of the addition of the tax rate set at national level and the tax rate set by the Autonomous Community concerned.

25 In this connection, it should be recalled that the Court has already held that the reinforcement of the autonomy of a regional or local authority through the grant of a power to generate tax income constitutes a purely budgetary objective that cannot, on its own, constitute a specific purpose in the sense contemplated by Article 3(2) of Directive 92/12 (*EKW and Wein & Co*, paragraph 33).

26 The Generalitat de Catalunya and the Spanish Government, supported by the Greek and French Governments, emphasise, however, that the revenue from the IVMDH is allocated to the Autonomous Communities not in a general manner with the purely budgetary objective of strengthening their financial capacity, but with the aim of offsetting the burden entailed by the exercise of the powers transferred to them in the fields of health and the environment. Pursuant to point 3 of Article 9(1) of Law No 24/2001, the tax revenue deriving from the tax rate established at national level and the tax rate set by the Autonomous Community concerned must be allocated to cover health expenditure, whilst the part of the revenue deriving from the latter rate may, where appropriate, be allocated to environmental expenditure. Unlike excise duty, which is specifically intended to collect revenue of a purely budgetary nature, the IVMDH contributes, by its design and its effects, to the specific purpose of reducing the social costs of the consumption of hydrocarbons.

27 As to those submissions, it should be stated at the outset that, since every tax necessarily pursues a budgetary purpose, the mere fact that a tax such as the IVMDH is intended to achieve a budgetary objective cannot, in itself, suffice – if Article 3(2) of Directive 92/12 is not to be rendered meaningless – to preclude that tax from being regarded as having, in addition, a specific purpose within the meaning of that provision (see, to that effect, *EKW and Wein & Co*, paragraph 33).

28 Moreover, as the Advocate General has stated, in essence, in points 26 and 27 of his Opinion, the predetermined allocation of the proceeds of a tax such as the IVMDH to the financing by regional authorities, such as the Autonomous Communities, of powers transferred to them by the State in the fields of health and the environment can constitute a factor to be taken into account for the purpose of establishing the existence of a specific purpose within the meaning of Article 3(2) of Directive 92/12 (see, to that effect, *EKW and Wein & Co*, paragraph 35).

29 However, such an allocation, which is merely a matter of internal organisation of the budget of a Member State, cannot, in itself, constitute a sufficient condition in that regard, since any Member State may decide to lay down, irrespective of the purpose pursued, that the proceeds of a tax be allocated to financing particular expenditure. Otherwise, any purpose could be considered to be specific within the meaning of Article 3(2) of Directive 92/12, which would deprive the harmonised excise duty established by that directive of all practical effect and be contrary to the principle that a derogating provision such as Article 3(2) must be interpreted strictly.

30 In order to be regarded as pursuing a specific purpose within the meaning of that provision, a tax such as the IVMDH must, by contrast, itself be directed at protecting health and the environment. This would, in particular, be the case, as the Advocate General has stated, in essence, in points 28 and 29 of his Opinion, where the proceeds of that tax had to be used for the purpose of reducing the social and environmental costs specifically linked to the consumption of the mineral oils on which that tax is imposed, so that there is a direct link between the use of the revenue and the purpose of the tax in question.

31 However, in the main proceedings, it is not contested that the revenue from the IVMDH has to be allocated by the Autonomous Communities to health expenditure in general and not to health expenditure which is specifically linked to the consumption of the taxed hydrocarbons. Such general expenditure may be financed by the proceeds of all kinds of taxes.

32 Furthermore, it is apparent from the information available to the Court that the national legislation at issue does not lay down any mechanism for the predetermined allocation of revenue from the IVMDH to environmental purposes. In the absence of such a predetermined allocation, as the Advocate General has observed, in essence, in points 25 and 26 of his Opinion, a tax such as the IVMDH could be regarded as being itself directed at protecting the environment and, therefore, as pursuing a specific purpose within the meaning of Article 3(2) of Directive 92/12 only if it were designed, so far as concerns its structure, and particularly the taxable item or the rate of tax, in such a way as to dissuade taxpayers from using mineral oils or to encourage the use of other products that are less harmful to the environment.

33 However, it is not apparent from the file before the Court that this is the case in the main proceedings and, moreover, it has not been contended in the written observations submitted to the Court that the IVMDH had those features.

34 It follows that a tax such as the IVMDH at issue in the main proceedings, which according to the information available to the Court is now integrated in the harmonised excise duty rate, cannot be regarded as pursuing a specific purpose within the meaning of Article 3(2) of Directive 92/12.

35 Consequently, it must be concluded that, properly construed, Article 3(2) precludes a tax such as the IVMDH from being regarded as meeting the conditions in that provision, without there being a need to examine whether the second condition set out in Article 3(2), relating to compliance with the tax rules applicable to excise duty or VAT, is satisfied.

36 The answer to the questions referred is therefore that Article 3(2) of Directive 92/12 must be interpreted as precluding national legislation that establishes a tax on the retail sale of mineral oils such as the IVMDH at issue in the main proceedings, for such a tax cannot be regarded as pursuing a specific purpose within the meaning of that provision where that tax, intended to finance the exercise by the regional or local authorities concerned of their powers in the fields of health and the environment, is not itself directed at protecting health and the environment.

Limitation of the temporal effects of the judgment

37 In their written observations, the Generalitat de Catalunya and the Spanish Government have requested that the Court limit the temporal effects of the present judgment in the event that it should find that Article 3(2) of Directive 92/12 precludes the establishment of a tax such as the IVMDH at issue in the main proceedings.

38 In support of their request, the Generalitat de Catalunya and the Spanish Government, first, draw the Court's attention to the serious financial consequences which a judgment making such a finding would have. The IVMDH has given rise to abundant litigation. The obligation to refund that tax, the proceeds of which reached approximately EUR 13 billion between 2002 and 2011, would jeopardise the financing of public health in the Autonomous Communities.

39 Secondly, they contend that, having regard to the European Commission's conduct, they had in good faith become convinced that the tax complied with European Union law. They maintain that the Commission staff whom the Spanish authorities consulted before that tax was established did not take issue, in the opinion they provided to the latter on 14 June 2001, with the possibility of creating a tax on mineral oils for the purpose of financing the powers transferred to the Autonomous Communities in the fields of health and the environment, but merely laid down the conditions that would make it possible to bring the IVMDH into line with European Union law. Nor have Spanish courts ever doubted the compatibility of that tax with European Union law. Furthermore, the infringement procedure initiated by the Commission in 2002 was suspended for several years. Lastly, after the Commission initiated that procedure, the Spanish authorities integrated the IVMDH into the excise duty on mineral oils by Organic Law No 2/2012 of 27 April 2012 on budgetary stability and financial viability (Ley Orgánica 2/2012, de Estabilidad Presupuestaria y Sostenibilidad Financiera; BOE No 103 of 30 April 2012, p. 32653).

40 In this connection, it should be recalled that, according to settled case-law of the Court, the interpretation which, in the exercise of the jurisdiction conferred on it by Article 267 TFEU, the Court gives to a rule of European Union law clarifies and defines the meaning and scope of that rule as it must be or ought to have been understood and applied from the time of its entry into force. It follows that the rule as thus interpreted may, and must, be applied by the courts even to legal relationships which arose and were established before the judgment ruling on the request for interpretation, provided that in other respects the conditions for bringing a dispute relating to the application of that rule before the courts having jurisdiction are satisfied (see, inter alia, Joined Cases C-453/02 and C-462/02 *Linneweber and Akritidis* [2005] ECR I-1131, paragraph 41; Case C-292/04 *Meilicke and Others* [2007] ECR I-1835, paragraph 34; and Joined Cases C-338/11 to C-347/11 *Santander Asset Management SGIIC and Others* [2012] ECR, paragraph 58).

41 It is only quite exceptionally that the Court may, in application of the general principle of legal certainty inherent in the legal order of the European Union, decide to restrict for any person concerned the opportunity of relying on a provision which it has interpreted with a view to calling into question legal relationships established in good faith. Two essential criteria must be fulfilled before such a limitation can be imposed, namely, that those concerned should have acted in good faith and that there should be a risk of serious difficulties (see, inter alia, Case C-402/03 *Skov and Bilka* [2006] ECR I-199, paragraph 51; Case C-2/09 *Kalinchev* [2010] ECR I-4939, paragraph 50; and *Santander Asset Management SGIIC and Others*, paragraph 59).

42 More specifically, the Court has taken that step only in quite specific circumstances, notably where there was a risk of serious economic repercussions owing in particular to the large number of legal relationships entered into in good faith on the basis of rules considered to be validly in force and where it appeared that individuals and national authorities had been led to adopt practices which did not comply with European Union law by reason of objective, significant uncertainty regarding the implications of European Union provisions, to which the conduct of other Member States or the Commission may even have contributed (see, inter alia, Case C-423/04 *Richards* [2006] ECR I-3585, paragraph 42; *Kalinchev*, paragraph 51; and *Santander Asset Management SGIIC and Others*, paragraph 60).

43 So far as concerns the first criterion relating to good faith, it should be stated, in this case, that, apart from the fact that in its judgment in *EKW and Wein & Co*, delivered in 2000, the Court had already ruled, in the light of Article 3(2) of Directive 92/12, on a tax with analogous features to those of the

IVMDH, it is in no way apparent from the material provided by the Generalitat de Catalunya and the Spanish Government, and contrary to what they have argued, that the Commission at any time indicated to those authorities that the IVMDH was compatible with that provision.

44 In this connection, it should be observed that the opinion provided by the staff of the Commission, on which the Generalitat de Catalunya and the Spanish Government rely, clearly concluded that the introduction of a tax on mineral oils that would vary in rate from one Autonomous Community to another, such as that proposed by the Spanish authorities, was contrary to European Union law. In particular, the Commission staff made it clear that such a tax could be regarded as compatible with Article 3(2) of Directive 92/12 only if a coherent link existed between the amount of that tax and the health or environmental protection problems it was intended to remedy and on the condition that it was not chargeable at the time of the mineral oils' release for consumption. Furthermore, as early as 2003, that is, the year after the IVMDH came into force, the Commission initiated an infringement procedure against the Kingdom of Spain concerning that tax.

45 In those circumstances, it cannot be accepted that the Generalitat de Catalunya and the Spanish Government acted in good faith in maintaining the IVMDH in force for a period of more than 10 years. The fact that they became convinced that that tax was compatible with European Union law cannot call that finding into question.

46 In such a context, it is irrelevant, contrary to what the Spanish Government contends, that the Commission, by permitting another Member State, in 2004, to authorise the regional authorities of that State to increase the excise duties on mineral oils, may have accepted a fiscal measure analogous to that which the Spanish authorities had presented to the staff of the Commission before the adoption of the IVMDH.

47 Since the first criterion referred to in paragraph 41 of the present judgment is not satisfied, it is not necessary to establish whether the second criterion mentioned in that paragraph, relating to the risk of serious difficulties, is satisfied.

48 It should nevertheless be recalled that it is settled case-law that the financial consequences which might ensue for a Member State from a preliminary ruling do not in themselves justify limiting the temporal effects of the ruling (Case C-184/99 *Grzelczyk* [2001] ECR I-6193, paragraph 52; Case C-209/03 *Bidar* [2005] ECR I-2119, paragraph 68; *Kalinchev*, paragraph 52; and *Santander Asset Management SGIIC and Others*, paragraph 62).

49 If it were otherwise, the most serious infringements would receive more lenient treatment inasmuch as it is those infringements that are liable to have the most significant financial implications for Member States. Furthermore, to limit the temporal effects of a judgment solely on the basis of such considerations would considerably diminish the judicial protection of the rights which taxpayers have under the fiscal legislation of the European Union (Joined Cases C-367/93 to C-377/93 *Roders and Others* [1995] ECR I-2229, paragraph 48).

50 It follows from those considerations that it is not appropriate to limit the temporal effects of the present judgment.

Costs

51 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Third Chamber) hereby rules:

Article 3(2) of Council Directive 92/12/EEC of 25 February 1992 on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products must be interpreted as precluding national legislation that establishes a tax on the retail sale of mineral oils such as the tax on retail sales of certain hydrocarbons (Impuesto sobre las Ventas Minoristas de Determinados Hidrocarburos) at issue in the main proceedings, for such a tax cannot be regarded as pursuing a specific purpose within the meaning of that provision where that tax, intended to finance the exercise by the regional or local authorities concerned of their powers in the fields of health and the environment, is not itself directed at protecting health and the environment.

[Signatures]