



Press and Information

Court of Justice of the European Union

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Luxembourg, 10 April 2014

Judgment in Case C-115/13  
Commission v Hungary

## **In exempting the private production of small quantities of spirits from excise duty, Hungary has infringed EU law**

*Where spirits manufactured by a distillery from fruit supplied by fruit growers are for the personal use of the latter, Hungary must apply the minimum rate of excise duty provided for by EU legislation*

EU law<sup>1</sup> requires Member States to apply excise duty on ethyl alcohol, for alcoholic beverages other than wine and beer, of a minimum amount of €550 per hectolitre of pure alcohol. However, Hungary is authorised to apply a reduced rate of excise duty on alcohol manufactured by distilleries from fruit supplied by fruit growers for the personal use of the latter. The preferential rate of excise duty cannot, however, be less than 50% of the standard national rate of excise duty on alcohol. Moreover, application of that rate is limited to 50 litres of alcohol per year per fruit-growers' household.

The Commission took the view that Hungary had not complied with EU rules on excise duties on alcoholic beverages and brought infringement proceedings before the Court of Justice. The excise duty on spirits manufactured in a distillery on behalf of a fruit grower is set, in that country, at 0 HUF up to a maximum of 50 litres per year, which amounts to a total exemption. In addition, spirits manufactured by a private person in his own distillery are exempted from excise duty up to a maximum annual volume of 50 litres when the spirits are intended for the personal consumption of the household.

In its judgment delivered today, the Court notes that the directive on excise duty on alcoholic beverages determines the cases in which those drinks may be exempted from excise duty or made subject to reduced rates of duty. The directive does not allow Member States to introduce preferential rules whose scope goes beyond what is permitted by the European legislature.

The Court further notes that the Hungarian legislation, which provides a total exemption for spirits manufactured from fruit supplied by fruit growers, up to the amount of 50 litres per year, exceeds the maximum 50% reduction which the directive permits Hungary to give. Similarly, national rules exempting spirits manufactured by private individuals from excise duty are contrary to the directive, since the directive does not provide for such an exception to the normal rate.

The Court thus declares that **Hungary has failed to fulfil its obligations under EU legislation relating to excise duties on alcoholic beverages.**

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**NOTE:** An action for failure to fulfil obligations directed against a Member State which has failed to comply with its obligations under European Union law may be brought by the Commission or by another Member State. If the Court of Justice finds that there has been a failure to fulfil obligations, the Member State concerned must comply with the Court's judgment without delay.

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<sup>1</sup> 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), as amended by the act concerning the conditions of accession of Bulgaria and Romania to the European Union (OJ 2005 L 157, p. 203) and 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).

Where the Commission considers that the Member State has not complied with the judgment, it may bring a further action seeking financial penalties. However, if measures transposing a directive have not been notified to the Commission, the Court of Justice may, on a proposal from the Commission, impose penalties at the stage of the initial judgment.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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