



Press and Information

Court of Justice of the European Union

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Judgment in Case C-63/19
Commission v Italy

The reduction on the price of fuel for residents of the Regione autonoma Friuli Venezia Giulia does not, in itself, constitute an infringement of the Energy Taxation Directive

The Commission has not established that Italy has introduced a reduction in excise duty in the form of a refund of the amount of the tax

In 1996, the Council ¹ authorised Italy to apply, until 31 December 2006, a reduction in the rate of excise duty on petrol purchased on the territory of the Regione autonoma Friuli Venezia Giulia (Autonomous Region of Friuli Venezia Giulia, Italy).

That authorisation was intended counteract the practice of residents of the Regione autonoma Friuli Venezia Giulia of refuelling their vehicles at a better price in one of the neighbouring Member States, Slovenia.

After 31 December 2006, residents of the Regione autonoma Friuli Venezia Giulia continued to benefit from a reduction in the 'pump' price of fuel, most recently on the basis of a regional law of 2010. According to the contribution scheme introduced by that law, service station operators grant those residents, as end consumers, reductions in the price of fuel. The regional administration subsequently refunds service station operators an amount equivalent to the reductions granted.

The Commission claims that that legislation results in an unauthorised reduction, in the form of a refund, of the excise duties applicable to petrol and diesel sold to residents of the Regione autonoma Friuli Venezia Giulia. It thus constitutes an infringement of the Energy Taxation Directive. ²

That directive establishes, in particular for energy products, minimum excise rates which Member States must apply in order to ensure the proper functioning of the internal market. Exceptions are possible but must be expressly provided for in the directive.

The Commission therefore brought an action for failure to fulfil obligations against Italy before the Court of Justice.

Italy, supported by Spain, contends that it is impossible to establish an objective link between the contribution at issue and the 'excise duty' component of the price of fuel 'at the pump'. Rather, that contribution relates to the 'production cost' component of that price since it is intended to offset that cost in a region characterised by a lack of infrastructure.

In today's judgment, the Court dismisses the Commission's action.

¹ Council Decision 96/273/EC of 22 April 1996 authorising certain Member States to apply or to continue to apply to certain mineral oils, when used for specific purposes, reduced rates of excise duty or exemptions from excise duty, in accordance with the procedure provided for in Article 8(4) of Directive 92/81 (OJ 1996 L 102, p. 40).

² Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (OJ 2003 L 283, p. 51).

The Court notes that the Commission does not dispute the fact that the contribution scheme at issue is financed by the general budget of the region and not, specifically, by the share of excise duties on fuel transferred by the central Italian State to that budget.

In order to amount to a 'refund' of excise duties, there must be a real link, at least indirectly, between the amounts refunded to service station operators (corresponding to the reductions granted to residents of the Regione autonoma Friuli Venezia Giulia when purchasing fuel) and the revenue from the collection of excise duties. The Court notes that the Commission neither claims nor establishes the existence of such a link.

The Court finds that the Commission has also failed to prove that the contribution scheme at issue leads to the neutralisation or reduction of excise duties on fuels.

The Court notes that a pre-existing refund scheme, some elements of which are similar to those of the contribution scheme at issue, was indeed the subject of a derogation authorised by the Council. Nevertheless, that fact does not preclude the current contribution scheme from being compliant with EU law even if it has not been the subject of an authorisation.

The Court concludes that **the Commission has not established that, by introducing the contribution system at issue, the Italian Republic has introduced a reduction in excise duty in the form of a refund of the amount of the tax, or, consequently, that that Member State has failed to fulfil its obligations under that directive.**

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.

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 can, 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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