

3. Taking into account the principles of the provisions of EU law concerning excise duty, in particular Article 1(1)(a) of Directive 2008/118 and Article 14(1)(a) of Directive 2003/96, are energy products subject to excise duty and, if so, at what rate — that for motor fuel or that for energy products used for heating purposes — if it is established that the energy products concerned were supplied to an end user which possesses the appropriate authorisations and permits under national law for the production of electricity and a certificate as an end user exempt from excise duty and which received the goods directly from the authorised warehouse keeper, but which is not the first purchaser of the goods?
4. Taking into account the principles of the provisions of EU law concerning excise duty, in particular Article 1(1)(a) of Directive 2008/118 and Article 14(1)(a) of Directive 2003/96, are energy products subject to excise duty at the rate for motor fuel if it is established that the energy products concerned are consumed or used for a purpose which is exempt from excise duty, namely the production of electricity, by a person which possesses the corresponding authorisations and permits under national law and which received the goods directly from the authorised warehouse keeper, but which is not the first purchaser of the goods?

⁽¹⁾ OJ 2009 L 9, p. 12.

⁽²⁾ 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).

⁽³⁾ OJ 2003 L 283, p. 51.

**Request for a preliminary ruling from the Budapest Környéki Közigazgatási és Munkaügyi Bíróság
(Hungary) lodged on 22 July 2014 — Hunland-Trade Mezőgazdasági Termelő és Kereskedelmi Kft. v
Mezőgazdasági és Vidékfejlesztési Hivatal Központi Szerve**

(Case C-356/14)

(2014/C 329/09)

Language of the case: Hungarian

Referring court

Budapest Környéki Közigazgatási és Munkaügyi Bíróság

Parties to the main proceedings

Applicant: Hunland-Trade Mezőgazdasági Termelő és Kereskedelmi Kft.

Defendant: Mezőgazdasági és Vidékfejlesztési Hivatal Központi Szerve

Questions referred

1. In accordance with the provisions of Community law, is a breeding animal of the bovine species, which has been entered, as its parents and grandparents were, in the herd-book of the Holstein-Friesian breed by the official organisation of breeders of the Member State, to be considered pure-bred, regardless of the degree of genetic purity of breed of its ancestors?
2. Must the provision of Decision 2005/379/EC ⁽¹⁾ to which reference is made be interpreted as meaning that breeding animals with pedigree certificates that contain the phrase set out in Article 2(1)(a) of that decision *are to be considered pure-bred breeding animals and, consequently, give rise to an entitlement to export aids when they are the subject of intra-Community trade?*

3. In view of the foregoing, is it possible to consider that, although an animal holds a pedigree certificate which has been issued by an association of breeders of the Member State and in which the abovementioned phrase is included, such an animal, when it is the subject of intra-Community trade, does not confer on the trader an entitlement to export aids because it is not considered a pure-bred breeding animal despite there being an official document in which the abovementioned phrase is included?

(¹) Commission Decision of 17 May 2005 on pedigree certificates and particulars for pure-bred breeding animals of the bovine species, their semen, ova and embryos (OJ 2005 L 125, p. 15).

Appeal brought on 21 July 2014 by Dunamenti Erőmű Zrt against the judgment of the General Court (Sixth Chamber) delivered on 30 April 2014 in Case T-179/09: Dunamenti Erőmű Zrt v European Commission

(Case C-357/14 P)

(2014/C 329/10)

Language of the case: English

Parties

Appellant: Dunamenti Erőmű Zrt (represented by: J. Philippe, F.-H. Boret, A.-C. Guyon, *avocats*)

Other party to the proceedings: European Commission

Form of order sought

The Appellant claims that the Court should:

- quash the judgment of the General Court of 30 April 2014 in Case T-179/09, in so far as it confirms the Commission Decision 2009/609/EC of 4 June 2008 on State aid C 41/2005 awarded by Hungary through Power Purchase Agreements (¹) which declared the PPA as illegal and incompatible State aid;
- give final judgment and annul the Commission Decision 2009/609/EC of 4 June 2008 on State aid C 41/2005 awarded by Hungary through Power Purchase Agreements in so far as it found that the PPA was illegal and incompatible State aid, or, in the alternative, to refer the case back to the General Court; and
- order the Commission to pay the costs of the proceedings before the General Court and the Court of Justice.

Pleas in law and main arguments

The Appellant relies on five pleas in law. In the judgment under appeal, the General Court dismissed the application brought by the Appellant for, in essence, the annulment of Commission Decision 2009/609/EC of 4 June 2008 on the State aid C 41/05 awarded by Hungary through Power Purchase Agreements and, in the alternative, the annulment of Articles 2 and 5 of that decision.

By its first plea, the Appellant respectfully contests the General Court's assessment in concluding that the Power Purchase Agreement (PPA) could be classified as new aid without determining beforehand whether the PPA constituted State aid at all within Article 107(1) TFEU.

By its second plea, the Appellant respectfully contests the General Court's conclusion that the Commission had not erred in finding that the time of Hungary's accession to the EU was the appropriate reference period for characterising a measure as State aid in accordance with the criteria laid down in Article 107(1) TFEU. The General Court errs in law in considering that Annex IV established a rule whereby the relevant period to assess whether a State measure constituted State aid was the time of Hungary's accession. The meaning of Article IV was distorted since it neither provides nor suggests that the analysis of whether a measure constitutes State aid should be conducted at the date of accession.