

Operative part of the judgment

1. Article 23 of Commission Regulation (EC) No 1122/2009 of 30 November 2009 laying down detailed rules for the implementation of Council Regulation (EC) No 73/2009 as regards cross-compliance, modulation and the integrated administration and control system, under the direct support schemes for farmers provided for by that regulation, as well as for the implementation of Council Regulation (EC) No 1234/2007 as regards cross-compliance under the support scheme provided for the wine sector, read in conjunction with Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD), as amended by Council Regulation (EC) No 473/2009 of 25 May 2009 and Commission Regulation (EC) No 1975/2006 of 7 December 2006 laying down detailed rules for the implementation of Council Regulation (EC) No 1698/2005, as regards the implementation of control procedures as well as cross-compliance in respect of rural development support measures, as amended by Commission Regulation (EC) No 484/2009 of 9 June 2009, must be interpreted as not precluding national legislation such as that at issue in the main proceedings from requiring that the applicant for agri-environmental aid supply to the paying authority, at the same time as its aid application, a certificate in relation to the rare plant species which gives the applicant the right to payment of that aid, on the condition that that legislation permits the operators concerned to comply under reasonable conditions with the requirements of that legislation, a matter which it is for the referring court to determine.

2. Article 58, third paragraph, of Regulation No 1122/2009 must be interpreted as meaning that the penalty imposed in that provision does not apply to an applicant for agri-environmental aid who does not attach a document to his aid application, such as the certificate at issue in the main proceedings, which entitles him to payment of that aid. Article 23(1), third paragraph, of that regulation must be interpreted as meaning that such an omission leads, in principle, to the inadmissibility of the application for payment of agri-environmental aid.

⁽¹⁾ OJ C 303, 8.9.2014.

Judgment of the Court (Second Chamber) of 23 December 2015 (request for a preliminary ruling from the Court of Session (Scotland) — United Kingdom) — Scotch Whisky Association and Others v Lord Advocate, Advocate General for Scotland

(Case C-333/14) ⁽¹⁾

(Reference for a preliminary ruling — Common organisation of the markets in agricultural products — Regulation (EU) No 1308/2013 — Free movement of goods — Article 34 TFEU — Quantitative restrictions — Measures having equivalent effect — Minimum price of alcoholic drinks calculated according to the alcoholic strength of the product — Justification — Article 36 TFEU — Protection of human life and health — Assessment by the national court)

(2016/C 068/14)

Language of the case: English

Referring court

Court of Session (Scotland)

Parties to the main proceedings

Applicants: Scotch Whisky Association, spiritsEUROPE, Comité de la Communauté économique européenne des Industries et du Commerce des Vins, Vins aromatisés, Vins mousseux, Vins de liqueur et autres Produits de la Vigne (CEEV)

Defendants: The Lord Advocate, Advocate General for Scotland

Operative part of the judgment

1. Regulation (EU) No 1308/2013 of the European Parliament and the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 must be interpreted as not precluding a national measure, such as that at issue in the main proceedings, which imposes a minimum price per unit of alcohol for the retail selling of wines, provided that that measure is in fact an appropriate means of securing the objective of the protection of human life and health and that, taking into consideration the objectives of the common agricultural policy and the proper functioning of the common organisation of agricultural markets, it does not go beyond what is necessary to attain that objective of the protection of human life and health.
2. Articles 34 TFEU and 36 TFEU must be interpreted as precluding a Member State choosing, in order to pursue the objective of the protection of human life and health by means of increasing the price of the consumption of alcohol, the option of legislation, such as that at issue in the main proceedings, which imposes a minimum price per unit of alcohol for the retail selling of alcoholic drinks and rejecting a measure, such as increased excise duties, that may be less restrictive of trade and competition within the European Union. It is for the referring court to determine whether that is indeed the case having regard to a detailed analysis of all the relevant factors in the case before it. The fact that the latter measure may procure additional benefits and be a broader response to the objective of combating alcohol misuse cannot in itself justify the rejection of that measure.
3. Article 36 TFEU must be interpreted as meaning that, where a national court examines national legislation in the light of the justification relating to the protection of the health and life of humans, under that article, it is bound to examine objectively whether it may reasonably be concluded from the evidence submitted by the Member State concerned that the means chosen are appropriate for the attainment of the objectives pursued and whether it is possible to attain those objectives by measures that are less restrictive of the free movement of goods and of the common organisation of agricultural markets.
4. Article 36 TFEU must be interpreted as meaning that the review of proportionality of a national measure, such as that at issue in the main proceedings, is not to be confined to examining only information, evidence or other material available to the national legislature when it adopted that measure. In circumstances such as those of the main proceedings, the compatibility of that measure with EU law must be reviewed on the basis of the information, evidence or other material available to the national court on the date on which it gives its ruling, under the conditions laid down by its national law.

⁽¹⁾ OJ C 339, 29.9.2014.

Judgment of the Court (Fourth Chamber) of 17 December 2015 (request for a preliminary ruling from the Bundesfinanzhof — Germany) — X-Steuerberatungsgesellschaft v Finanzamt Hannover-Nord

(Case C-342/14)⁽¹⁾

(Reference for a preliminary ruling — Recognition of professional qualifications — Directive 2005/36/EC — Article 5 — Freedom to provide services — Directive 2006/123/EC — Articles 16 and 17(6) — Article 56 TFEU — Tax consultancy company established in a Member State and providing services in another Member State — Legislation of a Member State requiring the registration and recognition of tax consultancy companies)

(2016/C 068/15)

Language of the case: German

Referring court

Bundesfinanzhof

Parties to the main proceedings

Applicant: X-Steuerberatungsgesellschaft

Defendant: Finanzamt Hannover-Nord