

# European Commission Closes Infringement Procedure Against Poland on Excise Duty Exemption for Alcohol Used for Medicinal Products

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On 19 April 2023, the European Commission announced that it had closed the infringement procedure against Poland for failing to comply with EU rules on the excise exemption of imported alcohol used in the manufacture of medicines.

The procedure was closed by the European Commission without further explanation. However, it may be assumed that it was closed due to the decisions that took place within the infringement procedure. The procedure was opened on 8 December 2016 by a letter of formal notice. Later, a reasoned opinion was sent to Poland on 6 June 2019 for failing to transpose [Directive 92/83/EEC](#) into their domestic law by not allowing importers of alcohol used for medicinal products to benefit from compulsory exemption from excise duty if they do not opt for the duty suspension regime. Due to Poland failing to act within the 2 months after the reasoned opinion was sent, the Commission decided to refer the case to the Court of Justice of the European Union (ECJ) in March 2021, see [ECJ Referral \(Excise\): Commission v Poland \(Case C-166/21\) – European Commission Refers Poland to ECJ For Denying Excise Duty Exemption on Alcohol Used for Medicines \(26 April 2021\)](#). On 24 November 2022, the ECJ gave its decision in the referred case where it was decided that: (i) the European Commission did not provide any evidence to support its claim that the Polish excise duty suspension procedure entails additional costs compared to the excise duty refund procedure and (ii) the Commission did not establish that Poland failed to fulfil its obligations under the Excise Directive on Alcohol (92/83) and the principle of proportionality.

The current Polish legislation does not provide for the possibility of refunding the excise duty paid on the import of ethyl alcohol used to produce medicines after the duty has been paid. This practice is contrary to European Union legislation on the structure's harmonization of excise duties on alcohol and alcoholic beverages and to the principle of proportionality.