

ECJ Decides on Compatibility of Anti-Abuse Provision with Rules on Chargeability of Excise Duties on Tobacco Products: *Companhia de Distribuição Integral Logista Portugal* (Case C-96/22) (Excise)

21 December 2023

Report from IBFD Knowledge Centre

On 21 December 2023, the Court of Justice of the European Union (ECJ) gave its decision in *Companhia de Distribuição Integral Logística Portugal, S.A. v. Autoridade Tributária e Aduaneira* (Case C-96/22) based on a number of grounds.

On those grounds, the Court (Fifth Chamber) hereby rules:

1. Articles 34 and 36 TFEU must be interpreted as not precluding legislation of a Member State which, in order to fight against tax evasion and abusive practices, and to protect public health, provides that the quantity of cigarettes dispatched for consumption on a monthly basis by an economic operator during the period from 1 September to 31 December of each calendar year must not exceed the average monthly quantity of cigarettes that that operator has dispatched for consumption during the previous twelve months, increased by a 10%.

2. Articles 7 and 9 of Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC

must be interpreted as meaning that

they preclude national legislation under which the quantity of cigarettes which exceeds the quantitative limit for dispatch for consumption provided for in that legislation is to be taxed at the rate in force at a date subsequent to that on which they are dispatched for consumption.

(Unofficial translation by IBFD Knowledge Centre)

For a previous TNS regarding the case, see [European Union-2, News 8 June 2023](#).

A more substantial report containing details of the ECJ's decision will be published in the ECJ Case Law collection in due course.

