

(English version)

**Question for written answer E-001716/24
to the Commission
Auke Zijlstra (PfE)
(15 September 2024)**

Subject: Consequences of the European Court of Justice judgment in Case C-465/20, Commission v Ireland and others

In its judgment of 10 September 2024, the European Court of Justice confirmed the Commission's 2016 decision that excluding from the tax base profits generated from intellectual property rights of two firms established in third countries infringes European competition rules.

That Court judgment means that tax rulings, which are a lawful and commonly used instrument, now afford multinationals less protection as regards their business operations, investments and returns in spite of the fact that such tax matters are a national issue. The fact that tax rulings that are sometimes more than 30 years old can still be revoked is also detrimental to legal certainty for both Member States and taxable firms.

1. Does the Commission share that view?
2. Will the Commission conduct an impact assessment so as to look into the scope and economic consequences of the judgment?

Submitted: 15.9.2024

**Answer given by Executive Vice-President Vestager on behalf of the European Commission
(25 November 2024)**

1. The Commission is currently assessing the judgment of the Court of Justice relating to the Apple case and its potential impact on other state aid cases. It is however too early to draw any conclusions from the judgment.

The Commission does not call into question the practice by the tax administrations of the Member States of providing tax rulings. On numerous occasions, it has recognised the importance of advance tax rulings as a tool to provide legal certainty to taxpayers (see e.g. Notice on the Notion of State Aid ⁽¹⁾, paragraph 169-170). So far, the Commission has looked into more than a thousand rulings but identified potential state aid issues only in a very limited number of cases. The grant of a tax ruling must, however, respect the state aid rules as also underlined by the Court in the Apple case. In particular, it cannot reduce the amount of tax which would normally have been payable by the recipient of the ruling if that recipient had been subject to the 'normal' tax system (see in particular paragraphs 296 and 306 of the *Apple* judgment).

2. The Commission does not intend to conduct an impact assessment on the economic consequences of the judgment. The case law of the Court of Justice is binding as to the interpretation of Union law for Member States and EU institutions. Accordingly, the Commission will take into account the 'Apple' judgment as part of the Court's jurisprudence on Article 107(1) of the Treaty on the Functioning of the European Union in enforcing the Treaty's state aid rules in the tax area.

⁽¹⁾ Official Journal of the European Union (JOEU) 2016/C262/01.