

# PÁZMÁNY STATE AID LAW FORUM 2025

**Sarolta Pártay-Czap**

Administrative Judge

Fővárosi Törvényszék (Metropolitan Court of  
Budapest)

# ADMINISTRATIVE COURT PROCEDURE

- ▶ Claim against an administrative decision of a national authority
- ▶ Challenging the applicable national law – EU law conformity
- ▶ **Case law of European Court of Justice**
- ▶ **PRELIMINARY RULING**
- ▶ national court has to set aside any provision of national law which conflict with EU law – national law is not applicable

# CASE LAW OF THE HU ADMINISTRATIVE COURTS

Taxation/parafiscal  
charge/fee

Energy sector  
regulation

- District heating aid

Electronic  
communications

- Frequency tender  
conditions

Expropriation of  
agricultural land  
for development  
of industrial areas

# TAXES AND ART. 107. TFEU

## Conditions required by Art. 107. TFEU for categorising a national measure as State aid:

- ▶ financing by the State or through State resources,
- ▶ existence of a benefit for an undertaking,
- ▶ selective nature of the said measure, and
- ▶ its effect on trade between Member States and the distortion of competition resulting therefrom

## Additional conditions in case of tax exemption to constitute as state aid:

- ▶ taxes do not fall within the scope of the provisions of the FEU Treaty concerning State aid, unless they constitute the means of financing an aid measure, so that they form an **integral part** of that measure.
- ▶ **it must be hypothecated to the aid measure** under the relevant national rules, in the sense that the revenue from the tax is **necessarily allocated** for the financing of the aid and has a **direct impact on the amount of that aid**.
- ▶ in relation to State aid, if a tax exemption is may be unlawful, does not affect the legality of the tax itself – an undertaking cannot rely on that in order to avoid payment of the tax
- ▶ the legality of the rules relating to that tax can be challenged as a matter of EU law

Subject of case	EU law/case law referred to in addition to Art. 107 and 108 TFEU	HU case number
special tax for telecommunications sector	C-75/18. Vodafone judgement	Kúria Kfv.I.35.071/2021/6. Fővárosi Közigazgatási és Munkaügyi Bíróság 7.K.30.264/2017/5.
special tax for store retail trade sector	C-323/18 Tesco judgement T-533/10. DTS Distribuidora de Televisión Digital, C-449/14. P DTS Distribuidora de Televisión Digital SA judgement C-390/98. Banks judgement C-248/12. Lufthansa Lufthansa judgement C-526/04. Laboratoires Boiron judgement C-261/01. és C-262/02. Van Calster and others judgement	Kúria Kfv.V.35.115/2021/7. Veszprémi Törvényszék 8.K.700.870/2020/4.
wine marketing contribution (bor forgalombahozatali járulék) parafiscal charge	C-174/02 Streekgewest Westelijk Noord-Brabant judgement C-266/04., C-270/04., C-276/04. and C-321/04-C-325/04. Nazairdis SAS kontra Organic judgement C-393/04. and C-41/05. Air Liquid SA and others judgement C-526/04. Laboratoires Boiron judgement	Kúria Kfv.III.37.202/2013/10. Fővárosi Törvényszék 25.K.31.940/2011/19.
additional mining fee (kiegészítő bányajáradék)	C-144/24. - ongoing infringement procedure C-4/25. - ongoing preliminary ruling	ongoing cases before Fővárosi Törvényszék

Subject of case	EU law/case law referred to in addition to Art. 107 and 108 TFEU	HU case number
<p><b>energy sector regulation - district heating aid</b></p> <p>A district heating provider challenged the rules of national law implementing EU aid provisions about district heating aid. The court found that national law is conform to the EU regulations and the Altmark criteria. EU law do not prescribe a minimum level of aid, on the contrary, the provisions are intended to prevent over-subsidization and excessive state aid.</p>	<p>Altmark conditions 2012/21/EU Commission Decision of 20 December 2011</p>	<p>Fővárosi Törvényszék 22.K.700.137/2018/6.</p>
<p><b>electronic communications – frequency tender conditions</b></p> <p>In tendering procedures, Art. 107(1) TFEU may also apply, and the courts must deal with the relevant arguments of the applicants on that merits. These rules had to be taken into account in administrative proceedings, including the auction procedure.</p>	<p>The Commission Communication 2009/C85/01. and 97/C 209/03.</p>	<p>Kúria Kfv.III.37.666/2012/27. Fővárosi Törvényszék 3.K.30.937/2012/73.</p>
<p><b>expropriation of agricultural land for development of industrial areas for reasons of national economic importance</b></p> <p>The plaintiff claimed that the purpose of the expropriation was to provide prohibited state aid to undertakings that would later operate in the area. According to the court, the conditions of state aid were not met.</p>		<p>Budapest Környéki Törvényszék 105.K.702.596/2021/20.</p>

THANK YOU FOR YOUR ATTENTION!

