

SUMMARY

ECJ 1 August 2022, case C-352/20 (HOLD Alapkezelő), Miscellaneous

HOLD Alapkezelő Befektetési Alapkezelő Zrt. - v - Magyar Nemzeti Bank, Hungarian case

Summary

Union law on remuneration policies of investment managers may apply to the dividends paid to employee shareholders who fall within the personal scope of this policy.

Questions

Must Articles 14 to 14b of Directive 2009/65 and Article 13(1) of, and points 1 and 2 of Annex II to, Directive 2011/61 be interpreted as meaning that the provisions relating to remuneration policies and practices are applicable to the dividends paid by a company, the regular business of which is the management of UCITS and AIFs, directly or indirectly to those of its employees who perform the duties of managing director, investment manager or portfolio manager by virtue of their right to property in respect of the shares of that company?

Ruling

Articles 14 to 14b of Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS), as amended by Directive 2014/91/EU of the European Parliament and of the Council of 23 July 2014, Article 13(1) of, and points 1 and 2 of Annex II to, Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010, must be interpreted as meaning that: the provisions relating to remuneration policies and practices are applicable to the dividends paid by a company, the regular business of which is the management of undertakings for collective investment in transferable

securities (UCITS) and Alternative Investment Funds (AIFs), directly or indirectly to those of its employees who perform the duties of managing director, investment manager or portfolio manager by virtue of their right to property in respect of the shares of that company, where the payment policy of those dividends is such as to induce those employees to take excessive risks which are detrimental to the interests of the UCITS or AIFs managed by that company and to the interests of their investors and is thus capable of facilitating the circumvention of the requirements flowing from those provisions.

Creator: European Court of Justice (ECJ)

Verdict at: 2022-08-01

Case number: C-532/20