



State aid: Commission refers Ireland to Court for failure to recover illegal tax benefits from Apple worth up to €13 billion

Brussels, 4 October 2017

The European Commission has decided to refer Ireland to the European Court of Justice for failing to recover from Apple illegal State aid worth up to €13 billion, as required by a Commission decision.

The Commission decision of [30 August 2016](#) concluded that Ireland's tax benefits to Apple were illegal under EU State aid rules, because it allowed Apple to pay substantially less tax than other businesses. As a matter of principle, EU State aid rules require that illegal State aid is recovered in order to remove the distortion of competition created by the aid.

Commissioner Margrethe **Vestager**, in charge of competition policy, said *"Ireland has to recover up to 13 billion euros in illegal State aid from Apple. However, more than one year after the Commission adopted this decision, Ireland has still not recovered the money, also not in part. We of course understand that recovery in certain cases may be more complex than in others, and we are always ready to assist. But Member States need to make sufficient progress to restore competition. That is why we have today decided to refer Ireland to the EU Court for failing to implement our decision."*

The deadline for Ireland to implement the Commission's decision on Apple's tax treatment was 3 January 2017 in line with standard procedures, i.e. four months from the official notification of the Commission decision. Until the illegal aid is recovered, the company in question continues to benefit from an illegal advantage, which is why recovery must happen as quickly as possible.

Today, more than one year after the Commission's decision, Ireland has still not recovered any of the illegal aid. Furthermore, although Ireland has made progress on the calculation of the exact amount of the illegal aid granted to Apple, it is only planning to conclude this work by March 2018 at the earliest.

The Commission has therefore decided to refer Ireland to the Court of Justice for failure to implement the Commission decision, in accordance with Article 108(2) of the Treaty on the Functioning of the European Union (TFEU).

Background

Ireland has appealed the Commission's August 2016 decision to the Court of Justice. Such actions for annulment brought against Commission decisions do not suspend a Member State's obligation to recover illegal aid (Article 278 TFEU) but it can, for example, place the recovered amount in an escrow account, pending the outcome of the EU court procedures.

Also, Member States still have to recover illegal State aid within the deadline set in the Commission decision, which is usually four months. Article 16(3) of Regulation 2015/1589 and the [Commission's recovery notice](#) (see [Press Release](#)) provide that Member States should immediately and effectively recover the aid from the beneficiary.

If a Member State does not implement a recovery decision, the Commission may refer the matter to the Court of Justice under Article 108(2) of the Treaty on the Functioning of the European Union (TFEU) that allows the Commission to directly refer cases to the Court for violations of EU State aid rules.

If a Member State does not comply with the judgment, the Commission may ask the Court to impose penalty payments under Article 260 TFEU.

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