

Judgment of the Court (First Chamber) of 1 August 2022 (request for a preliminary ruling from the Kúria — Hungary) — HOLD Alapkezelő Befektetési Alapkezelő Zrt. v Magyar Nemzeti Bank

(Case C-352/20) ⁽¹⁾

(Reference for a preliminary ruling — Approximation of laws — Directive 2009/65/EC — Undertakings for collective investment in transferable securities (UCITS) — Directive 2011/61/EU — Alternative investment funds — Remuneration policies and practices in respect of the senior managers of a UCITS management company or manager of an alternative investment fund — Dividends distributed to certain senior managers — Concept of ‘remuneration’ — Article 17(1) of the Charter of Fundamental Rights of the European Union — Right to property)

(2022/C 408/06)

Language of the case: Hungarian

Referring court

Kúria

Parties to the main proceedings

Applicant: HOLD Alapkezelő Befektetési Alapkezelő Zrt.

Defendant: Magyar Nemzeti Bank

Operative part of the judgment

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.

⁽¹⁾ OJ C 423, 7.12.2020.