

Cases C-10-22/97 Ministero delle Finanze v IN.CO.GE '90 [1998]

Facts: Companies objected against a national charge for registering companies. They secured an injunction for repayment of that national charge, but national authorities objected that the court lacked jurisdiction on matters relating to taxation.

Held: The incompatibility of EU law with a subsequently adopted rule of national law will not render the national rule non-existent. A national court is obliged to disapply the rule, provided that this obligation does not restrict the power of competent national courts to apply procedures for protecting the individual rights under EU law. It is for each Member State's legal system to determine which court has jurisdiction to hear disputes involving individual rights derived from EU law. The ECJ's power is to explicate on points of EU law to help resolve jurisdictional issues, but it is incumbent on Member States to protect EU law rights. The charge was to be repaid, but the obligation had to therefore be discharged according to national law.