

## ABSTRACT

**Key words:** trade, environment, case law, Court of Justice of the European Union

This rigorous thesis analysis the case law of the Court of Justice of the European Union relating to the measures of the Member States which primary purpose is to protect the environment and which; however, potentially or *de facto* create barriers to the free movement of goods in the European Union (here and under as “ecological measures with an impact on free movement of goods”). In particular, this rigorous thesis aims at revealing the rules which shall be followed by the Member States in order to guarantee that their proposed or adopted measures are in accordance with the EU law. The rules are further assessed in the light of their compliance with the environmental policy of the European Union and as much as their effect on the protection of the environment in practice is concerned. In the conclusion also the approaches of the Court of Justice of the European Union and of the judicial bodies of the World Trade Organization are compared.

The rules governing the coexistence of two competing goals of the European Union differ based on the fact whether the scope of the application of the measure is harmonized on the EU level or not. Further distinctions arise from the type of the harmonization concerned. Extra rules apply to the ecological measures which can be qualified as a technical regulation under Directive 98/34/EC.

The analysis proves that the system of rules adopted in the case law of the Court of Justice of the European Union is very complex and complicated. The system establishes number of exceptions which do not apply horizontally to all of its categories. Neither the meaning of the criteria used for the justification of the measure having impact on the free movement of goods (principle of non-discrimination, non-economic goal and proportionality) is the same. This fact makes the rules rather difficult to work with for the legislators and bodies applying law in the Member States.

It is further concluded that by deciding cases on ecological measures of the Member States, the Court of Justice of the European Union is in reality forced to decide on the distribution of powers between the European Union and the Member States. The Court of Justice tends to avoid these sensitive effects, and therefore, it focuses on the creation of general rules and leaves the floor to the courts of the Member States to apply the general rules on a specific situation. This practice of the Court of Justice of the European Union proves to be the most effective tool in terms of protection

of the environment in practice. The comparison with the system of the rules adopted by the World Trade organization shows that both systems correspond substantially. The final conclusion is that the rules governing the coexistence of the free movement of goods and of the protection of the environment, despite their imperfections, contribute effectively to the realization of the goals of the environmental policy of the European Union and to the protection of the environment in general.