

COURT OF FIRST INSTANCE

Judgment of the Court of First Instance of 9 September 2009 — *Diputación Foral de Álava and Others v Commission*

(Joined Cases T-30/01 to T-32/01 and T-86/02 to T-88/02) ⁽¹⁾

(State aid — Tax advantages granted by a territorial entity within a Member State — Tax exemptions — Decisions declaring aid schemes incompatible with the common market and requiring recovery of aid paid out — Classification as new aid or as existing aid — Operating aid — Principle of the protection of legitimate expectations — Principle of legal certainty — Decision initiating the formal investigation procedure under Article 88(2) EC — No need to adjudicate)

(2009/C 256/32)

Language of the case: Spanish

Parties

Applicant in Cases T-30/01 and T-86/02: Territorio Histórico de Álava — Diputación Foral de Álava (Spain) (represented by: M. Morales Isasi and I. Sáenz-Cortabarría Fernández, lawyers)

Applicant in Cases T-31/01 and T-88/02: Territorio Histórico de Guipúzcoa — Diputación Foral de Guipúzcoa (Spain) (represented by: M. Morales Isasi and I. Sáenz-Cortabarría Fernández, lawyers)

Applicant in Cases T-32/01 and T-87/02: Territorio Histórico de Vizcaya — Diputación Foral de Vizcaya (Spain) (represented by: M. Morales Isasi and I. Sáenz-Cortabarría Fernández, lawyers)

Defendant: Commission of the European Communities (represented initially, in Cases T-30/01 to T-32/01, by: J. Flett, S. Pardo and J.L. Buendía Sierra and, in Cases T-86/02 to T-88/02, by: J.L. Buendía Sierra and F. Castillo de la Torre, and subsequently by Castillo de la Torre and C. Urraca Caviedes, acting as Agents)

Interveners in support of the applicants in Cases T-86/02 to T-88/02: Comunidad autónoma del País Vasco — Gobierno Vasco (Spain), (represented by: M. Morales Isasi and I. Sáenz-Cortabarría Fernández, lawyers); and Confederación Empresarial Vasca (Confebask) (Bilbao, Spain) (represented by: M. Araujo Boyd, L. Ortiz Blanco and V. Sopena Blanco, lawyers)

Intervener in support of the defendant: Comunidad autónoma de La Rioja (Spain) (represented, in Cases T-86/02 and T-87/02, by:

J.M. Criado Gámez and, in Case T-88/02, by I. Serrano Blanco, lawyers)

Re:

Application in Cases T-30/01 to T-32/01 for annulment of the Commission decision of 28 November 2000 to initiate the procedure under Article 88(2) EC in relation to the tax advantages in the form of corporation tax exemption for certain newly established firms granted by provisions adopted by the Diputación Foral de Álava, the Diputación Foral de Guipúzcoa and the Diputación Foral de Vizcaya and application in Cases T-86/02 to T-88/02 for annulment of Commission Decisions 2003/28/EC, 2003/86/EC and 2003/192/EC of 20 December 2001 on a State aid scheme in the form of corporation tax exemption implemented by Spain in 1993 for certain newly established firms in Álava (T-86/02), Vizcaya (T-87/02) and Guipúzcoa (T-88/02) (OJ 2003 L 17, p. 20; OJ 2003 L 40, p. 11, and OJ 2003 L 77, p. 1, respectively).

Operative part of the judgment

The Court:

1. Orders the joinder of Cases T-30/01 to T-32/01, and T-86/02 to T-88/02 for the purposes of judgment.
2. In Cases T-30/01 to T-32/01:
 - Declares there is no longer any need to adjudicate on those actions;
 - orders the Territorio Histórico de Álava — Diputación Foral de Álava, the Territorio Histórico de Guipúzcoa — Diputación Foral de Guipúzcoa and the Territorio Histórico de Vizcaya — Diputación Foral de Vizcaya to bear their own costs, and to pay the costs of the Commission.
3. In Cases T-86/02 to T-88/02:
 - Dismisses the actions;
 - orders the Territorio Histórico de Álava — Diputación Foral de Álava, the Territorio Histórico de Guipúzcoa — Diputación Foral de Guipúzcoa and the Territorio Histórico de Vizcaya — Diputación Foral de Vizcaya to bear their own costs and to pay the costs of the Commission and the Comunidad autónoma de La Rioja;
 - orders the Comunidad autónoma del País Vasco — Gobierno Vasco and the Confederación Empresarial Vasca (Confebask) each to bear their own costs.

⁽¹⁾ OJ C 108, 7.4.2001.