C/2023/755

20.11.2023

Judgment of the General Court of 27 September 2023 — Banco Santander and Others v Commission

(Cases T-12/15, T-158/15 and T-258/15) [1]

(State aid — Aid scheme implemented by Spain — Deduction of corporation tax allowing companies which are tax resident in Spain to amortise goodwill resulting from the indirect acquisition of shareholdings in non-resident companies through the direct acquisition of shareholdings in non-resident holding companies — Decision declaring the aid scheme unlawful and incompatible with the internal market and ordering the recovery of the aid paid out — Decision 2011/5/EC — Decision 2011/282/EU — Scope — Withdrawal of an act — Legal certainty — Legitimate expectations)

(C/2023/755)

Language of the case: Spanish

Parties

Applicants in Case T-12/15: Banco Santander, SA (Santander, Spain), Santusa Holding, SL (Boadilla del Monte, Spain) (represented by: E. Abad Valdenebro, R. Calvo Salinero, A. Lamadrid de Pablo and V. Romero Algarra, lawyers)

Applicants in Case T-158/15: Abertis Infraestructuras, SA (Barcelona, Spain), Abertis Telecom Satélites, SA (Madrid, Spain) (represented by A. Lamadrid de Pablo, M. Santa María Fernández, E. Abad Valdenebro, R. Calvo Salinero, M. Cenzual Aldaz and V. Romero Algarra, lawyers)

Applicant in Case T-258/15: Axa Mediterranean Holding, SA (Palma de Mallorca, Spain) (represented by A. Lamadrid de Pablo, E. Abad Valdenebro, R. Calvo Salinero, V. Romero Algarra and I. Otaegi Amundarain, lawyers)

Defendant: European Commission (represented by: P. Němečková, B. Stromsky and C. Urraca Caviedes, acting as Agents)

Re:

By their actions based on Article 263 TFEU, the applicants seek the annulment of Commission Decision (EU) 2015/314 of 15 October 2014 on the State aid SA.35550 (13/C) (ex 13/NN) (ex 12/CP) implemented by Spain — Scheme for the tax amortisation of financial goodwill for foreign shareholding acquisitions (OJ 2015 L 56, p. 38).

Operative part of the judgment

The Court:

1. Joins Cases T-12/15, T-158/15 and T-258/15 for the purposes of the judgment;
2. Annuls Commission Decision (EU) 2015/314 of 15 October 2014 on the State aid SA.35550 (13/C) (ex 13/NN) (ex 12/CP) implemented by Spain — Scheme for the tax amortisation of financial goodwill for foreign shareholding acquisitions;
3. Orders the European Commission to bear the costs.

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[1] OJ C 81, 9.3.2015.