



C/2024/912

29.1.2024

Judgment of the Court (Grand Chamber) of 5 December 2023 — Grand Duchy of Luxembourg, Engie Global LNG Holding Sàrl, Engie Invest International SA, Engie SA v European Commission, Ireland

(Joined Cases C-451/21 P ⁽¹⁾ and C-454/21 P ⁽²⁾)

(Appeal — State aid — Article 107(1) TFEU — Tax rulings adopted by a Member State — Aid declared incompatible with the internal market — Obligation to recover that aid — Concept of ‘advantage’ — Determination of the reference framework — ‘Normal’ taxation under national law — Review by the Court of Justice of the interpretation and application of national law by the General Court of the European Union — Direct taxation — Strict interpretation — Powers of the European Commission — Obligation to state reasons — Legal classification of the facts — Concept of ‘abuse of law’ — Ex ante assessment by the tax authorities of the Member State concerned — Principle of legal certainty)

(C/2024/912)

Language of the case: French

Parties

Appellants: Grand Duchy of Luxembourg, (represented by: A. Germeaux, T. Schell and T. Uri, acting as Agents, and by J. Bracker and D. Waelbroeck, *avocats*, and A. Pesch, *conseil* (Case C-451/21 P)); Engie Global LNG Holding Sàrl, Engie Invest International SA, Engie SA (represented initially B. Le Bret, F. Pili, C. Rydzynski and M. Struys, and subsequently M. Gouraud, B. Le Bret, F. Pili, J. Schaffner and M. Struys, *avocats* (Case C-454/21 P))

Other parties to the proceedings: European Commission (represented by: J. Carpi Badía and B. Stromsky, acting as Agents), Ireland

Operative part of the judgment

The Court:

1. Joins Cases C-451/21 P and C-454/21 P for the purposes of the judgment;
2. Sets aside the judgment of the General Court of 12 May 2021, *Luxembourg and Others v Commission* (T-516/18 and T-525/18, EU:T:2021:251);
3. Annuls Commission Decision (EU) 2019/421 of 20 June 2018 on State aid SA.44888 (2016/C) (ex 2016/NN) implemented by Luxembourg in favour of Engie;
4. Orders the European Commission to pay the costs of the appeals in Cases C-451/21 P and C-454/21 P;
5. Orders the European Commission to pay the costs of the proceedings at first instance.

⁽¹⁾ OJ C 481, 29.11.2021.

⁽²⁾ OJ C 382, 20.9.2021.