

Parties to the main proceedings

Applicants: J.B.G.T. Miljoen (C-10/14), X (C-14/14), Société Générale SA (C-17/14)

Defendant: Staatssecretaris van Financiën

Operative part of the judgment

Articles 63 TFEU and 65 TFEU must be interpreted as precluding legislation of a Member State which imposes a withholding tax on dividends distributed by a resident company both to resident taxpayers and non-resident taxpayers and provides a mechanism for deducting or reimbursing the tax withheld only for resident taxpayers, while for non-resident taxpayers, both natural persons and companies, the tax withheld is a final tax, in so far as the final tax burden relating to those dividends, borne in that Member State by non-resident taxpayers, is greater than that borne by resident taxpayers, which it is for the referring court to determine in the main proceedings. For the purposes of determining those tax burdens, the referring court must take account, in Cases C-10/14 and C-14/14, of the taxation of residents in relation to all shares held in Netherlands companies in the calendar year, of capital which is exempt from tax under national legislation, and in Case C-17/14, of expenses which are directly linked to the actual payment of the dividends.

If the existence of a restriction on the movement of capital is established, it may be justified by the effects of a bilateral convention for the avoidance of double taxation concluded by the Member State of residence and the Member State in which the dividends are paid, provided that the difference in treatment, relating to the taxation of dividends, between taxpayers residing in the latter Member State and those residing in other Member States ceases to exist. In circumstances such as those at issue in Cases C-14/14 and C-17/14, and without prejudice to the determinations to be made by the referring court, the restriction on the free movement of capital, if established, cannot be regarded as justified.

⁽¹⁾ OJ C 129, 28.4.2014.

Judgment of the Court (Third Chamber) of 17 September 2015 — Mory SA, in liquidation, Mory Team, in liquidation, Superga Invest v European Commission

(Case C-33/14 P) ⁽¹⁾

(Appeal — State aid — Actions for annulment — Article 263 TFEU — Admissibility — Unlawful and incompatible aid — Obligation to recover — European Commission decision not to extend the recovery obligation to the successor of the aid beneficiary — Interest in bringing proceedings — Action for damages and for the recovery of aid before the national courts — Locus standi — Appellant not individually concerned)

(2015/C 371/09)

Language of the case: French

Parties

Appellants: Mory SA, in liquidation, Mory Team, in liquidation, Superga Invest (represented by: B. Vatier and F. Loubières, avocats)

Other party to the proceedings: European Commission (represented by: T. Maxian Rusche and B. Stromsky, acting as Agents)

Operative part of the judgment

The Court:

- 1) *Sets aside the Order of the General Court of the European Union in Mory and Others v Commission (T-545/12, EU:T:2013:607);*
- 2) *Dismisses as inadmissible the action for annulment brought by Mory SA, Mory Team and Superga Invest against Decision C(2012) 2401 final of the Commission of 4 April 2012 concerning the takeover of assets of the Sernam group as part of its composition with creditors;*
- 3) *Orders Mory SA, Mory Team, Superga Invest and the European Commission to bear their own costs relating both to the proceedings at first instance and to the appeal.*

⁽¹⁾ OJ C 102, 7.4.2014.

Judgment of the Court (Grand Chamber) of 15 September 2015 (request for a preliminary ruling from the Bundessozialgericht — Germany) — Jobcenter Berlin Neukölln v Nazifa Alimanovic and Others

(Case C-67/14) ⁽¹⁾

(Reference for a preliminary ruling — Freedom of movement for persons — Citizenship of the Union — Equal treatment — Directive 2004/38/EC — Article 24(2) — Social assistance — Regulation (EC) No 883/2004 — Articles 4 and 70 — Special non-contributory cash benefits — Member State nationals who are job-seekers and resident in a different Member State — Excluded — Retention of the status of ‘worker’)

(2015/C 371/10)

Language of the case: German

Referring court

Bundessozialgericht

Parties to the main proceedings

Applicant: Jobcenter Berlin Neukölln

Defendants: Nazifa Alimanovic, Sonita Alimanovic, Valentina Alimanovic, Valentino Alimanovic