

3. Orders the Portuguese Republic to bear its own costs and to pay those incurred by the European Commission;
4. Orders the Federal Republic of Germany to bear its own costs.

⁽¹⁾ OJ C 16, 19.1.2015.

**Judgment of the Court (Grand Chamber) of 21 December 2016 — European Commission v
Hansestadt Lübeck, successor in law to Flughafen Lübeck GmbH**

(Case C-524/14 P) ⁽¹⁾

*(Appeal — State aid — Airport charges — Article 108(2) TFEU — Fourth paragraph of Article 263
TFEU — Decision to initiate the formal investigation procedure — Admissibility of an action for
annulment — Person individually concerned — Legal interest in bringing proceedings — Article 107(1)
TFEU — Condition relating to selectivity)*

(2017/C 053/03)

Language of the case: German

Parties

Appellant: European Commission (represented by: T. Maxian Rusche, R. Sauer and V. Di Bucci, Agents)

Other party to the proceedings: Hansestadt Lübeck, successor in law to Flughafen Lübeck GmbH (represented by: M. Núñez Müller and I. Ruck, Rechtsanwälte)

Interveners in support of the defendant: Federal Republic of Germany (represented by: T. Henze and K. Petersen, Agents), Kingdom of Spain (represented by: M.A. Sampol Pucurull, Agent)

Operative part of the judgment

The Court:

1. Dismisses the appeal;
2. Orders the European Commission to bear its own costs and to pay those incurred by Hansestadt Lübeck;
3. Orders the Federal Republic of Germany and the Kingdom of Spain to bear their own costs.

⁽¹⁾ OJ 26, 26.1.2015.

**Judgment of the Court (Fourth Chamber) of 21 December 2016 (request for a preliminary ruling
from the Vestre Landsret — Denmark — Masco Denmark ApS, Damixa ApS v Skatteministeriet**

(Case C-593/14) ⁽¹⁾

*(Reference for a preliminary ruling — Freedom of establishment — Tax legislation concerning thin
capitalisation of subsidiaries — Inclusion in the taxable income of a lending company of the loan interest
paid by a non-resident borrowing subsidiary — Tax exemption for interest paid by a resident borrowing
subsidiary — Balanced allocation between Member States of the power to impose taxes — Need to prevent
the risk of tax avoidance)*

(2017/C 053/04)

Language of the case: Danish

Referring court

Vestre Landsret

Parties to the main proceedings

Applicants: Masco Denmark ApS, Damixa ApS

Defendant: Skatteministeriet

Operative part of the judgment

Article 49 TFEU, read in conjunction with Article 54 TFEU, must be interpreted as precluding legislation of a Member State, such as that at issue in the main proceedings, which allows a resident company a tax exemption for interest paid by a resident subsidiary, in so far as that subsidiary is not entitled to a tax deduction for the corresponding interest expenditure by reason of the rules limiting the deduction of interest paid in cases of thin capitalisation, but which excludes the exemption that would result from the application of its own thin-capitalisation legislation in the case where the subsidiary is resident in another Member State.

⁽¹⁾ OJ C 73, 2.3.2015.

Judgment of the Court (Grand Chamber) of 21 December 2016 — European Commission v World Duty Free Group SA, formerly Autogrill España SA (C-20/15 P), Banco Santander SA, Santusa Holding SL (C-21/15 P)

(Joined Cases C-20/15 P and C-21/15 P) ⁽¹⁾

(Appeal — State aid — Article 107(1) TFEU — Tax system — Corporation tax — Deduction — Amortisation of goodwill resulting from acquisitions by undertakings resident for tax purposes in Spain of shareholdings of at least 5 % in undertakings resident for tax purposes outside Spain — Concept of ‘State aid’ — Condition relating to selectivity)

(2017/C 053/05)

Language of the case: Spanish

Parties

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

Other parties to the proceedings: World Duty Free Group SA, formerly Autogrill España SA (C-20/15 P), Banco Santander SA, Santusa Holding SL (C-21/15 P) (represented by: J.L. Buendía Sierra, E. Abad Valdenebro and R. Calvo Salinero, abogados)

Interveners in support of the defendants: Federal Republic of Germany (represented by: T. Henze and K. Petersen, acting as Agents) Ireland (represented by: G. Hodge and E. Creedon, acting as Agents, and by B. Doherty, Barrister, and A. Goodman, Barrister), Kingdom of Spain (represented by: M.A. Sampol Pucurull, acting as Agent)

Operative part of the judgment

The Court:

1. Sets aside the judgments of the General Court of the European Union of 7 November 2014, *Autogrill España v Commission* (T-219/10, EU:T:2014:939), and of 7 November 2014, *Banco Santander and Santusa v Commission* (T-399/11, EU:T:2014:938);
2. Refers the cases back to the General Court of the European Union;