

### Form of order sought

The applicant claims that the General Court should:

- annul the contested decision under Article 263 TFEU in so far as the decision establishes the existence of State aid and orders its recovery from the investors;
- in the alternative, annul Articles 1, 2 and 4(1) of the decision, inasmuch as they identify the investors as beneficiaries who have to repay the alleged aid;
- in the alternative, declare inapplicable the order, in Article 4(1), for recovery of the aid from the investors, inasmuch as it is contrary to the principles of legal certainty and the protection of legitimate expectations since recovery may not be ordered from a date earlier than the publication of the decision to initiate [the formal investigation procedure];
- in the alternative, annul Article 2 of the decision and declare invalid the methodology for determining the alleged advantage [conferred] to be repaid by the investors;
- declare non-existent or, in the alternative, annul in part Article 4(1) of the decision relating to the prohibition on ‘transfer[ring] the burden of recovery on other subjects’, inasmuch as this amounts to a decision on the prohibition or presumed invalidity of the contractual clauses on recovery from third parties of the amounts the investors have to repay to the Spanish State; and
- order the Commission to pay the costs.

### Pleas in law and main arguments

The decision contested in the present proceedings is the same as that contested in Case T-700/13 *Bankia v Commission*, Case T-719/13 *Lico Leasing and Pequeños y Medianos Astilleros de Reconversión v Commission* and Case T-3/14 *Anudal Industrial v Commission*.

The pleas in law and main arguments are similar to those put forward in those cases.

It is claimed, in particular, that Article 107 TFEU has been infringed in so far as the contested decision finds that, as a whole, the tax regime at issue, applicable to certain finance lease agreements for the acquisition of newly-built vessels, constitutes State aid.

According to the applicant, the fiscal decision also infringes Article 107 TFEU in so far as it finds that the measures that make up the tax regime in question constitute ‘new’ State aid.

In the alternative, the applicant alleges breach of the principles of legal certainty and the protection of legitimate expectations, and infringement of Articles 107, 108 and 206 TFEU, in so far as [the decision] identifies incorrectly the beneficiaries and determines incorrectly the amounts to be recovered; and infringement of Article 108(3) TFEU, Article 19 of Council Regulation (EC) No 659/1999 [of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty], Article 3(6) of the Treaty on European Union and Articles 16 and 17 of the Charter of Fundamental Rights of the European Union, in so far as Article 4(1) of the contested decision prohibits, or finds to be invalid the contractual

clauses pursuant to which the investors may claim from third parties the amounts they would have had to repay to the Spanish authorities.

### Action brought on 7 January 2014 — Banco Popular Español v Commission

(Case T-31/14)

(2014/C 61/38)

*Language of the case: Spanish*

### Parties

*Applicant:* Banco Popular Español, SA (Madrid, Spain) (represented by: E. Navarro Varona, P. Vidal Martínez, J. López-Quiroga Teijero and G. Canalejo Lasarte, lawyers)

*Defendant:* European Commission

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- order the Commission to pay the costs.

### Pleas in law and main arguments

The decision contested in the present proceedings is the same as that contested in Case T-29/14 *Taetel v Commission*.

The pleas in law and main arguments are those put forward in that case.