

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;

3. Reserves the costs;

4. Orders the Federal Republic of Germany, Ireland and the Kingdom of Spain to bear their own costs.

⁽¹⁾ OJ C 81, 9.3.2015.

Judgment of the Court (Third Chamber) of 21 December 2016 (request for a preliminary ruling from the Oberlandesgericht Celle — Germany) — Remondis GmbH & Co. KG Region Nord v Region Hannover

(Case C-51/15) ⁽¹⁾

(References for a preliminary ruling — Article 4(2) TEU — Respect for the national identity of Member States inherent in their fundamental structures, political and constitutional, inclusive of regional and local self-government — Internal organisation of the Member States — Regional authorities — Legal instrument creating a new public-law entity and organising the transfer of powers and responsibilities for the performance of public tasks — Public procurement — Directive 2004/18/EC — Article 1(2)(a) — Concept of ‘public contract’)

(2017/C 053/06)

Language of the case: German

Referring court

Oberlandesgericht Celle

Parties to the main proceedings

Applicant: Remondis GmbH & Co. KG Region Nord

Defendant: Region Hannover

Intervening parties: Zweckverband Abfallwirtschaft Region Hannover

Operative part of the judgment

Article 1(2)(a) of Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts must be interpreted as meaning that an agreement concluded by two regional authorities, such as that at issue in the main proceedings, on the basis of which they adopt constituent statutes forming a special-purpose association with legal personality governed by public law and transfer to that new public entity certain competences previously held by those authorities and henceforth belonging to that special-purpose association, does not constitute a ‘public contract’.

However, such a transfer of competences concerning the performance of public tasks exists only if it concerns both the responsibilities associated with the transferred competence and the powers that are the corollary thereof, so that the newly competent public authority has decision-making and financial autonomy, which it is for the referring court to verify.

⁽¹⁾ OJ C 155, 11.5.2015.
