

**Parties to the main proceedings**

*Appellant:* Euro Park Service, having assumed the rights and obligations of Cairnbulg Nanteuil

*Respondent:* Ministre des finances et des comptes publics

**Operative part of the judgment**

1. In so far as Article 11(1)(a) of Council Directive 90/434/EEC of 23 July 1990 on the common system of taxation applicable to mergers, divisions, transfers of assets and exchanges of shares concerning companies of different Member States does not carry out exhaustive harmonisation, EU law allows for the assessment of the compatibility of national legislation, such as that at issue in the main proceedings, in the light of primary law, where that legislation was adopted to transpose into national law the option provided for in that provision.
2. Article 49 TFEU and Article 11(1)(a) of Directive 90/434 must be interpreted as precluding national legislation, such as that at issue in the main proceedings, which, in the case of a cross-border merger, makes the granting of the tax advantages applicable to such an operation under that directive, in the present case the deferral of the taxation of the capital gains relating to the assets transferred by a French company to a company established in another Member State, subject to a process of prior approval under which, in order to obtain that approval, the taxpayer must show that the operation concerned is justified for commercial reasons, that it does not have as its principal objective, or as one of its principal objectives, tax evasion or tax avoidance and that its terms make it possible for the capital gains deferred for tax purposes to be taxed in the future, whereas in the case of a national merger such a deferral is granted without the taxpayer being made subject to such a process.

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<sup>(1)</sup> OJ C 106, 21.3.2016.

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**Judgment of the Court (Tenth Chamber) of 9 March 2017 — Ellinikos Chrysos AE Metalleion kai Viomichanias Chrysou v Hellenic Republic, European Commission**

**(Case C-100/16 P) <sup>(1)</sup>**

**(Appeal — State aid — Transfer of mines at a price below real market value — Exemption from taxes on the transfer transaction — Assessment of the amount of the advantage granted)**

(2017/C 144/16)

Language of the case: English

**Parties**

*Appellant:* Ellinikos Chrysos AE Metalleion kai Viomichanias Chrysou (represented by: V. Christianos and I. Soufleros, dikigoroi)

*Other parties to the proceedings:* Hellenic Republic, European Commission (represented by: É. Gippini Fournier and A. Bouchagiar, Agents)

**Operative part of the judgment**

*The Court:*

1. Sets aside the judgment of the General Court of the European Union in Greece and Ellinikos Chrysos v Commission (T-233/11 and T-262/11, EU:T:2015:948) in so far as, by that judgment, the General Court failed to respond to Ellinikos Chrysos AE Metalleion kai Viomichanias Chrysou's argument based on the purpose for which the expert report on the appraisal of the mines in Cassandra (Greece) had been drawn up during 2004;

2. Dismisses the appeal as to the remainder;
3. Dismisses *Ellinikos Chrysos AE Metalleion kai Viomichanias Chrysou's* action for annulment of Commission Decision 2011/452/EU of 23 February 2011 on the State aid C 48/08 (ex NN 61/08) implemented by Greece in favour of *Ellinikos Chrysos AE*;
4. Orders *Ellinikos Chrysos AE Metalleion kai Viomichanias Chrysou* to pay the costs.

<sup>(1)</sup> OJ C 175, 17.5.2016.

**Judgment of the Court (Eighth Chamber) of 9 March 2017 — Poland v European Commission**  
(Case C-105/16 P) <sup>(1)</sup>

**(Appeal — EAGGF and EAFRD — Expenditure excluded from EU financing — Rural Development — Regulation (EC) No 1257/1999 — Article 33b — Support for semi-subsistence farms undergoing restructuring — Obligation to spend at least 50 % of the support on restructuring operations)**

(2017/C 144/17)

Language of the case: Polish

**Parties**

Appellant: Republic of Poland (represented by: B. Majczyna, acting as Agent)

Other party to the proceedings: European Commission (represented by: A. Stobiecka-Kuik and J. Aquilina, acting as Agents)

**Operative part of the judgment**

The Court:

1. Dismisses the appeal;
2. Orders the Republic of Poland to pay the costs.

<sup>(1)</sup> OJ C 136, 18.4.2016.

**Judgment of the Court (Grand Chamber) of 7 March 2017 (request for a preliminary ruling from the Conseil du Contentieux des Étrangers — Belgium) — X and X v État belge**

(Case C-638/16 PPU) <sup>(1)</sup>

**(Reference for a preliminary ruling — Regulation (EC) No 810/2009 — Article 25(1)(a) — Visa with limited territorial validity — Issuing of a visa on humanitarian grounds or because of international obligations — Concept of ‘international obligations’ — Charter of Fundamental Rights of the European Union — European Convention for the Protection of Human Rights and Fundamental Freedoms — Geneva Convention — Issuing of a visa where a risk of infringement of Article 4 and/or Article 18 of the Charter of Fundamental Rights is established — No obligation)**

(2017/C 144/18)

Language of the case: French

**Referring court**

Conseil du Contentieux des Étrangers