

## V

(Announcements)

## COURT PROCEEDINGS

## COURT OF JUSTICE

**Judgment of the Court (First Chamber) of 26 April 2018 (request for a preliminary ruling from the Tribunal Supremo — Spain) — Asociación Nacional de Grandes Empresas de Distribución (ANGED) v Generalitat de Catalunya**

(Case C-233/16) <sup>(1)</sup>

*(Reference for a preliminary ruling — Regional tax on large retail establishments — Freedom of establishment — Protection of the environment and town and country planning — State aid — Selective measure — Letter from the Commission stating that no further action will be taken on a complaint — Existing aid)*

(2018/C 211/02)

Language of the case: Spanish

**Referring court**

Tribunal Supremo

**Parties to the main proceedings**

*Appellant:* Asociación Nacional de Grandes Empresas de Distribución (ANGED)

*Respondent:* Generalitat de Catalunya

**Operative part of the judgment**

1. Articles 49 and 54 TFEU must be interpreted as not precluding a tax levied on large retail establishments, such as that at issue in the main proceedings.
2. A tax such as that at issue in the main proceedings imposed on large retail establishments according, in essence, to their sales area does not constitute State aid within the meaning of Article 107(1) TFEU to the extent that it exempts establishments whose sales area is less than 2 500 m<sup>2</sup>. Nor, in so far as that tax exempts establishments which pursue the business of a garden centre or of selling vehicles, construction materials, machinery or industrial supplies or reduces by 60 % the tax base of establishments selling furniture, sanitary ware and doors and windows and those that are do-it-yourself stores, does it constitute State aid within the meaning of Article 107(1) TFEU, provided that those establishments do not have as significant an adverse effect on the environment and on town and country planning as the others, which it is for the referring court to ascertain.

Such a tax does, however, constitute State aid within the meaning of that provision, to the extent that it exempts collective large retail establishments with a surface area equal to or greater than 2 500 m<sup>2</sup>.

3. In circumstances such as those described by the referring court, State aid resulting from a tax regime such as that at issue in the main proceedings cannot constitute existing aid within the meaning of Article 1(b) 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, the wording of which is reproduced in Article 1(b) of Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union.

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<sup>(1)</sup> OJ C 260, 18.7.2016.

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**Judgment of the Court (First Chamber) of 26 April 2018 (requests for a preliminary ruling from the Tribunal Supremo — Spain) — Asociación Nacional de Grandes Empresas de Distribución (ANGED) v Consejería de Economía y Hacienda del Principado de Asturias (C-234/16), Consejo de Gobierno del Principado de Asturias (C-235/16)**

**(Joined Cases C-234/16 and C-235/16) <sup>(1)</sup>**

**(References for a preliminary ruling — Regional tax on large retail establishments — Freedom of establishment — Protection of the environment and town and country planning — State aid — Selective measure)**

(2018/C 211/03)

Language of the cases: Spanish

**Referring court**

Tribunal Supremo

**Parties to the main proceedings**

*Appellant:* Asociación Nacional de Grandes Empresas de Distribución (ANGED)

*Respondents:* Consejería de Economía y Hacienda del Principado de Asturias (C-234/16), Consejo de Gobierno del Principado de Asturias (C-235/16)

**Operative part of the judgment**

1. Articles 49 and 54 TFEU must be interpreted as not precluding a tax levied on large retail establishments, such as that at issue in the main proceedings.
2. A tax such as that at issue in the main proceedings imposed on large distribution establishments according, in essence, to their display and sales area does not constitute State aid within the meaning of Article 107(1) TFEU to the extent that it exempts establishments whose sales area is less than 4 000 m<sup>2</sup>. Nor, in so far as that tax exempts establishments which pursue the business of a garden centre or of selling vehicles, construction materials, machinery or industrial supplies and whose sales area does not exceed 10 000 m<sup>2</sup>, does it constitute State aid within the meaning of Article 107(1) TFEU, provided that those establishments do not have as significant an adverse effect on the environment and on town and country planning as the others, which it is for the referring court to ascertain.

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<sup>(1)</sup> OJ C 260, 18.7.2016.