

Nor is the Commission's position consistent with the Proposal for a Directive of 16 March 2011 (COM/2011/0121 final) on a Common Consolidated Corporate Tax Base (CCCTB) which provides, even for commercial companies, for an exemption from tax in respect of subsidies directly linked to the acquisition, construction or improvement of fixed assets.

Furthermore, by giving Belgium formal notice to amend its tax legislation, the Commission is seeking to bypass the taxation competence of the Member States, by imposing a tax harmonisation which is without its competence under Article 113 TFEU. It thus omits to take account of the Member States' prerogatives to define public service activities and the scope of direct taxation, the obligation to ensure the proper functioning of services of general interest ('SGIs') necessary to social and economic cohesion and the discretionary organisation of the organisation of SGIs. The European legislature devolved to the Member States the competence to exempt from taxation activities which they define at their absolute discretion to be public service activities.

The applicants are of the opinion that the essential activities of the internal Walloon ports are SGIs, which are not governed, in accordance with EU law, by the competition rules.

Finally, the European criteria for the definition of State aid are not satisfied in the present case, in particular as regards the criterion of selectiveness.

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**Action brought on 26 September 2017 — Le Port de Bruxelles et Région Bruxelles-Capitale v Commission**

**(Case T-674/17)**

(2017/C 382/74)

*Language of the case: French*

**Parties**

*Applicants:* Le Port de Bruxelles (Brussels, Belgium), Région Bruxelles-Capitale (Brussels) (represented by: J. Vanden Eynde, lawyer)

*Defendant:* European Commission

**Form of order sought**

- Declare this application admissible as regards each of the applicants and, in consequence, annul Commission Decision SA.38393 (2016CP, ex 2015/E) — Taxation of ports in Belgium (C(2017) 5174 final);
- Declare this action admissible and well-founded;
- Consequently, annul the decision of the European Commission to regard the fact that the economic activities of the Belgian ports, and in particular the Walloon ports, are not subject to corporate tax as State aid incompatible with the internal market;
- Order the defendant to pay the costs.

**Pleas in law and main arguments**

In support of the action, the applicants rely, in essence, on a single plea in law which is substantially identical or similar to that raised in Case T-673/17, *Port autonome du Centre et de l'Ouest and Others v Commission*.

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