

**Judgment of the Court (Second Chamber) of 17 September 2020 (request for a preliminary ruling from the Conseil d'État — France) — *Ministre de l'Agriculture et de l'Alimentation v Compagnie des pêches de Saint-Malo***

(Case C-212/19) <sup>(1)</sup>

*(Reference for a preliminary ruling — State aid — Concept — Wreck of the oil tanker Erika — Aid scheme for aquaculture and fisheries undertakings — Decision declaring the aid scheme partly incompatible with the common market and ordering the recovery of the aid paid out — Assessment of validity — Examination of the Court's own motion — Admissibility — Failure to bring an action for annulment by the defendant in the main proceedings — Reduction in social security contributions — Employees' contributions — Advantage — Question of who is liable for repayment)*

(2020/C 423/09)

Language of the case: French

**Referring court**

Conseil d'État

**Parties to the main proceedings**

*Applicant:* Ministre de l'Agriculture et de l'Alimentation

*Defendant:* Compagnie des pêches de Saint-Malo

**Operative part of the judgment**

Commission Decision 2005/239/EC of 14 July 2004 concerning certain aid measures applied by France to assist fish farmers and fishermen is invalid in so far as it classifies the reduction in employees' contributions granted by the French Republic to fishermen for the period from 15 April to 15 October 2000 as State aid incompatible with the common market.

<sup>(1)</sup> OJ C 164, 13.5.2019.

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**Judgment of the Court (First Chamber) of 15 October 2020 (request for a preliminary ruling from the Naczelny Sąd Administracyjny — Poland) — *E. sp. z o.o. sp. k. v Minister Finansów***

(Case C-335/19) <sup>(1)</sup>

*(Reference for a preliminary ruling — Common system of value added tax (VAT) — Directive 2006/112/EC — Article 90 — Reduction of the VAT taxable amount — Total or partial non-payment of the price — Conditions imposed by national legislation for the exercise of the right to reduction — Condition that the debtor must not be the subject of insolvency or winding-up proceedings — Condition that the creditor and the debtor must be subject to VAT)*

(2020/C 423/10)

Language of the case: Polish

**Referring court**

Naczelny Sąd Administracyjny

**Parties to the main proceedings**

*Applicant:* E. sp. z o.o. sp. k.

*Defendant:* Minister Finansów

### Operative part of the judgment

Article 90 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as precluding national legislation which makes the reduction of the taxable amount for the purposes value added tax (VAT) subject to the condition that, on the day of delivery of the goods or provision of the services and on the day preceding that on which the adjusted tax return seeking that reduction is filed, the debtor is registered as a taxable person for the purposes of VAT and is not the subject of insolvency or winding-up proceedings, and that, on the day preceding the date of filing of the adjusted tax return, the creditor is itself still registered as a taxable person for the purposes of VAT.

(<sup>1</sup>) OJ C 280, 19.8.2019.

### Judgment of the Court (Sixth Chamber) of 21 October 2020 — European Central Bank v Insolvent Estate of Espírito Santo Financial Group SA

(Case C-396/19 P) (<sup>1</sup>)

*(Appeal — Decision 2004/258/EC — Article 4(1)(a) — Protocol on the Statute of the European System of Central Banks and of the European Central Bank (ECB) — Article 10.4 — Access to ECB documents — Decision of the Governing Council — Confidentiality of the meetings and deliberations of ECB bodies — Outcome of deliberations — Partial refusal of access — Undermining of the protection of the public interest — Obligation to state reasons)*

(2020/C 423/11)

Language of the case: English

### Parties

*Appellant:* European Central Bank (represented by: F. Malfrère and M. Ioannidis, acting as Agents, and by H.-G. Kamann, Rechtsanwalt)

*Other party to the proceedings:* Insolvent Estate of Espírito Santo Financial Group SA (represented by: D. Duarte de Campos and S. Estima Martins, advogados)

### Operative part of the judgment

The Court:

1. Sets aside point 1 of the operative part of the judgment of the General Court of the European Union of 13 March 2019, *Espírito Santo Financial Group v ECB* (T-730/16, not published, EU:T:2019:161), in so far as the General Court annulled the decision of the European Central Bank (ECB) of 31 August 2016 partially refusing to disclose certain documents relating to the ECB decision of 1 August 2014 concerning Banco Espírito Santo SA in that, by that decision, the ECB refused to disclose the amount of credit set out in the extracts of the minutes recording the decision of the Governing Council of the ECB of 28 July 2014;
2. Sets aside point 3 of the operative part of the judgment of the General Court of the European Union of 13 March 2019, *Espírito Santo Financial Group v ECB* (T-730/16, not published, EU:T:2019:161), in so far as it ruled on costs;
3. Dismisses the appeal as to the remainder;
4. Dismisses the action for annulment brought by the Insolvent Estate of Espírito Santo Financial Group SA in so far as it seeks annulment of the European Central Bank (ECB) decision of 31 August 2016 partially refusing to disclose certain documents relating to the ECB decision of 1 August 2014 concerning Banco Espírito Santo SA in that, by that decision, the ECB refused to disclose the amount of credit set out in the extracts from the minutes recording the decision of the Governing Council of the ECB of 28 July 2014;
5. Orders the Insolvent Estate of Espírito Santo Financial Group SA to bear its own costs and to pay half of those incurred by the European Central Bank in the proceedings both at first instance and on appeal;