

2. Article 5(2)(a) of Regulation No 715/2007 must be interpreted as meaning that a defeat device can be justified under that provision only where it is established that that device strictly meets the need to avoid immediate risks of damage or accident to the engine, caused by a malfunction of a component of the exhaust gas recirculation system, of such a serious nature as to give rise to a specific hazard when a vehicle fitted with that device is driven. Furthermore, the 'need' for a defeat device, within the meaning of that provision, exists only where, at the time of the EC type-approval of that device or of the vehicle equipped with it, no other technical solution makes it possible to avoid immediate risks of damage or accident to the engine, which give rise to a specific hazard when driving the vehicle.

⁽¹⁾ OJ C 87, 16.3.2020.

Judgment of the Court (Grand Chamber) of 8 November 2022 — Fiat Chrysler Finance Europe v Ireland

(Joined Cases C-885/19 P and C-898/19 P) ⁽¹⁾

(Appeal — State aid — Aid implemented by the Grand Duchy of Luxembourg — Decision declaring the aid incompatible with the internal market and unlawful and ordering its recovery — Tax ruling — Advantage — Selectivity — Arm's length principle — Reference framework — National law applicable — 'Normal' taxation)

(2023/C 7/03)

Language of the case: English

Parties

Appellants: Fiat Chrysler Finance Europe (represented by N. de Boynes, lawyer, M. Doeding, Solicitor, M. Engel, Rechtsanwalt, F. Hoseinian, advokat, G. Maisto, A. Massimiano, avvocati, J. Rodríguez, abogado, M. Severi, avvocato, and A. Thomson, Solicitor), Ireland (represented by M. Browne, A. Joyce and J. Quaney, acting as Agents, and by B. Doherty, Barrister-at-Law, P. Gallagher, Senior Counsel, and S. Kingston, Senior Counsel)

Other parties to the proceedings: Grand Duchy of Luxembourg (represented by A. Germeaux and T. Uri, acting as Agents, and by J. Bracker, A. Steichen and D. Waelbroeck, lawyers), European Commission (represented by P.-J. Loewenthal and B. Stromsky, acting as Agents)

Operative part of the judgment

The Court:

1. Joins Cases C-885/19 P and C-898/19 P for the purposes of the judgment;
2. Sets aside the judgment of the General Court of the European Union of 24 September 2019, Luxembourg and Fiat Chrysler Finance Europe v Commission (T-755/15 and T-759/15, EU:T:2019:670);
3. Annuls Commission Decision (EU) 2016/2326 of 21 October 2015 on State aid SA.38375 (2014/C ex 2014/NN) which Luxembourg granted to Fiat;
4. Declares that there is no need to adjudicate on the appeal in Case C-885/19 P;
5. Orders each of the parties to bear its own costs in Case C-885/19 P;
6. Orders the European Commission to pay the costs of the appeal in Case C-898/19 P;
7. Orders the European Commission to pay the costs of the proceedings at first instance.

⁽¹⁾ OJ C 45, 10.2.2020.
OJ C 54, 17.2.2020.