

**Request for a preliminary ruling from the Finanzgericht Hamburg (Germany) lodged on 16 July 2019 —  
Jebsen & Jessen (GmbH & Co.) KG v Hauptzollamt Hamburg**

(Case C-543/19)

(2019/C 328/31)

*Language of the case: German*

**Referring court**

Finanzgericht Hamburg

**Parties to the main proceedings**

*Applicant:* Jebsen & Jessen (GmbH & Co.) KG

*Defendant:* Hauptzollamt Hamburg

**Questions referred**

1. Under the conditions of the dispute in the main proceedings, is the exemption from the anti-dumping duty introduced by Article 1 of Commission Implementing Regulation (EU) 2015/82 <sup>(1)</sup> pursuant to Article 2(1) of that regulation precluded if an undertaking invoice pursuant to Article 2(1)(b) of that regulation does not specify Implementing Decision (EU) 2015/87 <sup>(2)</sup> referred to in point 9 of the annex to that regulation, but specifies rather Decision 2008/899/EC? <sup>(3)</sup>
2. If Question 1 is answered in the affirmative: May an undertaking invoice that meets the requirements of the annex to Implementing Regulation (EU) 2015/82 be submitted in the context of a procedure for establishing whether anti-dumping duties are reimbursable in order to obtain exemption from the anti-dumping duty imposed in Article 1 of that regulation pursuant to Article 2(1) thereof?

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<sup>(1)</sup> Commission Implementing Regulation (EU) 2015/82 of 21 January 2015 imposing a definitive anti-dumping duty on imports of citric acid originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Council Regulation (EC) No 1225/2009 and of partial interim reviews pursuant to Article 11(3) of Regulation (EC) No 1225/2009 (OJ 2015 L 15, p. 8).

<sup>(2)</sup> Commission Implementing Decision (EU) 2015/87 of 21 January 2015 accepting the undertakings offered in connection with the anti-dumping proceeding concerning imports of citric acid originating in the People's Republic of China (OJ 2015 L 15, p. 75).

<sup>(3)</sup> Commission Decision of 2 December 2008 accepting the undertakings offered in connection with the anti-dumping proceeding concerning imports of citric acid originating in the People's Republic of China (OJ 2008 L 323, p. 62).

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**Request for a preliminary ruling from the Conseil d'État (France) lodged on 22 July 2019 — Société Eco TLC v  
Ministre de la transition écologique et solidaire**

(Case C-556/19)

(2019/C 328/32)

*Language of the case: French*

**Referring court**

Conseil d'État

**Parties to the main proceedings**

*Applicant:* Société Eco TLC

*Defendant:* Ministre de la transition écologique et solidaire

*Other party:* Fédération des entreprises du recyclage

### Question referred

Must Article 107 of the Treaty on the Functioning of the European Union be interpreted as meaning that a system such as that described in paragraphs 9 to 11, whereby a private, non-profit eco-body, approved by the public authorities, receives contributions from those who place on the market a particular category of product and who enter into a contract with it to that effect, in return for a service consisting in the organisation on their behalf of the treatment of the waste from those products, and redistributes to operators responsible for the sorting and recovery of that waste, subsidies the amount of which is set out in the approval, in the light of environmental and social targets, is to be regarded as State aid within the meaning of that provision?

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**Appeal brought on 2 July 2019 by the European Commission against the judgment delivered by the General Court of the European Union (Ninth Chamber, Extended Composition) on 16 May 2019 in Cases T-836/16 and T-624/17 Republic of Poland v European Commission**

**(Case C-562/19 P)**

(2019/C 328/33)

*Language of the case:* Polish

### Parties

*Appellant:* European Commission (represented by: K. Herrmann and P.-J. Loewenthal, acting as Agents)

*Other parties to the proceedings:* Republic of Poland, Hungary

### Form of order sought

The appellant claims that the Court should:

- set aside the entirety of the judgment delivered by the General Court (Ninth Chamber, Extended Composition) in Joined Cases T-836/16 and T-624/17, *Republic of Poland v Commission* EU:T:2019:338; and
- dismiss the action brought by the Republic of Poland against the European Commission in Case T-836/16, seeking annulment of Commission Decision C(2016) 5596 final of 19 September 2016 on the State aid SA.44351 (2016/C) (ex 2016/NN) initiating the formal investigation procedure and containing an injunction suspending the Polish tax on the retail sector; dismiss the action brought by the Republic of Poland in Case T-624/17, seeking annulment of Commission Decision (EU) 2018/160 of 30 June 2017 on the State aid SA.44351 (2016/C) (ex 2016/NN) implemented by Poland for the tax on the retail sector; order the Republic of Poland to pay the costs of the proceedings at first instance and of the present proceedings;
- in the alternative, if the two actions are not dismissed in their entirety, refer the cases back to the General Court of the European Union for a new ruling on the pleas which were not examined at first instance and reserve the costs of the proceedings at first instance and of the present proceedings pending a final ruling in the case.

### Grounds of appeal and main arguments

In support of its appeal, the Commission relies on two grounds of appeal.

By its first ground of appeal, the Commission claims that the General Court infringed Article 107(1) TFEU, in considering that the Polish tax on the retail sector is not selective. The error of law committed by the General Court is based on the following grounds:

- First, in paragraphs 63 to 68 of the judgment under appeal, the General Court was wrong to state that the Commission had erred in excluding the progressive rates of the Polish tax on the retail sector from the definition of the reference framework. Contrary to the General Court's statement, the approach adopted by the Commission in the decision closing the procedure is consistent with the case-law of the Court of Justice. The General Court therefore erred in law in determining the reference framework.