

**Action brought on 8 October 2019 – Rentokil Initial and Rentokil Initial 1927 v Commission****(Case T-692/19)**

(2019/C 432/74)

*Language of the case: English***Parties**

*Applicants:* Rentokil Initial plc (Camberley, United Kingdom), Rentokil Initial 1927 plc (Camberley) (represented by: J. Lesar, Solicitor, and K. Beal, QC)

*Defendant:* European Commission

**Form of order sought**

The applicants claim that the Court should:

- annul the defendant's decision C(2019) 2526 Final of 2 April 2019 on the state aid SA.44896 implemented by the United Kingdom concerning CFC Group Financing Exemption;
- order the defendant to pay the applicants' costs.

**Pleas in law and main arguments**

In support of the action, the applicants rely on ten pleas in law.

1. First plea in law, alleging that the Commission wrongly applied Article 107(1) TFEU and/or made a manifest error of appraisal or assessment in its selection of the reference framework for the analysis of the tax regime. The Commission should have treated the reference framework as the UK's corporation tax regime, not simply the Controlled Foreign Companies (CFC) regime itself.
2. Second plea in law, alleging that the Commission erred in law in its application of Article 107(1) TFEU and/or made a manifest error of appraisal or assessment by adopting a flawed approach to the analysis of the CFC regime. The Commission at recitals (124) to (126) of the contested decision wrongly treated the provisions of Chapter 9 of Part 9A of the Taxation (International and Other Provisions) Act 2010 as a form of derogation from a general charge to tax found in Chapter 5 thereof.
3. Third plea in law, alleging that the Commission erred in law in its application of Article 107(1) TFEU when finding at recitals (127) to (151) of the contested decision that the selectivity criterion was fulfilled in that undertakings in factually and legally comparable positions were treated differently.
4. Fourth plea in law, alleging that the 75 % exemption under section 371ID of the Taxation (International and Other Provisions) Act 2010 is justified by the nature and overall structure of the tax system.

5. Fifth plea in law, alleging that the 'matched interest' exception under section 371IE of the Taxation (International and Other Provisions) Act 2010 is justified by the nature and overall structure of the tax system. Alternatively, the Commission's decision in respect of the 'matched interest' exception is vitiated by a failure by the Commission to give adequate reasons for its decision, contrary to Article 296 TFEU.
6. Sixth plea in law, alleging that the imposition of a tax burden on CFCs meeting the exemptions laid down in the said Chapter 9 as a class would breach the applicants' freedom of establishment contrary to Article 49 TFEU.
7. Seventh plea in law, alleging that there was a manifest error of appraisal or assessment in relation to the 75% exemption and fixed ratio issue.
8. Eighth plea in law, alleging that the Commission's decision fails to comply with the general EU law principle of non-discrimination or equality.
9. Ninth plea in law, alleging that the Commission erred in law in applying by analogy or placing undue reliance upon the terms of Council Directive (EU) 2016/1164, <sup>(1)</sup> which was not applicable *ratione temporis*.
10. Tenth plea in law, alleging that the Commission erred in law in its application of Article 107(1) TFEU by finding at recital (176) of the contested decision that a class of beneficiaries exists (which included the applicants) and that they (the applicants) had obtained any aid which needed to be recovered under Article 2(1) of the contested decision.

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<sup>(1)</sup> Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market (OJ 2016 L 193, p. 1).

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### Action brought on 11 October 2019 – DD v FRA

(Case T-703/19)

(2019/C 432/75)

Language of the case: English

#### Parties

*Applicant:* DD (represented by: L. Levi and M. Vandenbussche, lawyers)

*Defendant:* European Union Agency for Fundamental Rights (FRA)

#### Form of order sought

The applicant claims that the Court should:

- grant the applicant compensation for the non-material prejudice suffered, as detailed in this appeal, estimated, *ex aequo et bono*, at EUR 50 000;
- annul the decision of the Director the European Union Agency for Fundamental Rights (FRA) of 21 December 2018 rejecting the applicant's request under Article 90(1) of the Staff Regulations;
- if need be, annul the decision of the FRA Director of 24 June 2019, rejecting the applicant's complaint under Article 90(2) of the Staff Regulations;
- order the defendant to pay the costs.