

## V

(Announcements)

## COURT PROCEEDINGS

## COURT OF JUSTICE

**Judgment of the Court (Grand Chamber) of 20 November 2018 — European Commission v Council of the European Union (C-626/15), European Commission v Council of the European Union (C-659/16)**

(Joined Cases C-626/15 and C-659/16) <sup>(1)</sup>

*(Actions for annulment — Decision of the Permanent Representatives Committee (Coreper) — Decision approving the submission of a reflection paper to an international body — Admissibility — Challengeable act — Exclusive, shared or complementary competence of the European Union — Action of the European Union alone in an international body or participation of the Member States alongside it — Conservation of marine biological resources — Fisheries — Protection of the environment — Research — Marine protected areas (MPAs) — Antarctic Treaty — Convention on the Conservation of Antarctic Marine Living Resources — Weddell Sea and Ross Sea)*

(2019/C 25/02)

Language of the case: French

**Parties**

(C-626/15)

*Applicant:* European Commission (represented by: A. Bouquet, E. Paasivirta and C. Hermes, acting as Agents)

*Defendant:* Council of the European Union (represented by: A. Westerhof Löfflerová, R. Liudvinaviciute-Cordeiro and M. Simm, acting as Agents)

*Interveners in support of the defendant:* Federal Republic of Germany (represented by: T. Henze, J. Möller, K. Stranz and S. Eisenberg, acting as Agents), Hellenic Republic (represented by: G. Karipsiadis and K. Boskovits, acting as Agents), Kingdom of Spain (represented by: M.A. Sampol Pucurull, acting as Agent), French Republic (represented by: F. Fize, D. Colas, G. de Bergues and B. Fodda, acting as Agents), Kingdom of the Netherlands (represented by: M. Gijzen, M. Bulterman and M. Noort, acting as Agents), Portuguese Republic (represented by: L. Inez Fernandes, M. Figueiredo and M.L. Duarte, acting as Agents), Republic of Finland (represented by: J. Heliskoski, acting as Agent), Kingdom of Sweden (represented by: A. Falk, C. Meyer-Seitz, U. Persson, N. Otte Widgren, L. Zettergren and L. Swedenborg, acting as Agents), United Kingdom of Great Britain and Northern Ireland (represented by: C. Brodie, acting as Agent, and J. Holmes QC)

(C-659/16)

*Applicant:* European Commission (represented by: A. Bouquet, E. Paasivirta and C. Hermes, acting as Agents)

*Defendant:* Council of the European Union (represented by: A. Westerhof Löfflerová, R. Liudvinaviciute-Cordeiro and M. Simm, acting as Agents)

*Interveners in support of the defendant:* Kingdom of Belgium (represented by: J. Van Holm, C. Pochet and L. Van den Broeck, acting as Agents), Federal Republic of Germany (represented by: T. Henze, J. Möller and S. Eisenberg, acting as Agents), Kingdom of Spain (represented by: M.A. Sampol Pucurull, acting as Agent), French Republic (represented by: D. Colas and B. Fodda, acting as Agents), Grand Duchy of Luxembourg (represented by: D. Holderer, acting as Agent), Kingdom of the Netherlands (represented by: B. Koopman, M. Bulterman and M. Noort, acting as Agents), Portuguese Republic (represented by: L. Inez Fernandes, M. Figueiredo and L. Medeiros, acting as Agents), Republic of Finland (represented by: J. Heliskoski, acting as Agent), Kingdom of Sweden (represented by: A. Falk, C. Meyer-Seitz, H. Shev and L. Zettergren, acting as Agents), United Kingdom of Great Britain and Northern Ireland (represented by: C. Brodie and G. Brown, acting as Agents, J. Holmes QC and J. Gregory, Barrister)

**Operative part of the judgment**

The Court:

1. Dismisses the actions;
2. Orders the European Commission to bear its own costs and to pay those incurred by the Council of the European Union;
3. Orders the Kingdom of Belgium, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Portuguese Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland to bear their own costs.

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<sup>(1)</sup> OJ C 59, 15.2.2016.  
OJ C 38, 6.2.2017.

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**Judgment of the Court (Fourth Chamber) of 21 November 2018 (Request for a preliminary ruling from the Commissione Tributaria Provinciale di Reggio Calabria — Italy) — Fortunata Silvia Fontana v Agenzia delle Entrate — Direzione provinciale di Reggio Calabria**

(Case C-648/16) <sup>(1)</sup>

**(Reference for a preliminary ruling — Value added tax (VAT) — Directive 2006/112/EC — Article 273 — Tax adjustment — Method of calculating the taxable amount by extrapolation — Right to deduct VAT — Presumption — Principles of neutrality and proportionality — National law basing the calculation of VAT on presumed turnover)**

(2019/C 25/03)

Language of the case: Italian

**Referring court**

Commissione Tributaria Provinciale di Reggio Calabria

**Parties to the main proceedings**

Applicant: Fortunata Silvia Fontana

Defendant: Agenzia delle Entrate — Direzione provinciale di Reggio Calabria

**Operative part of the judgment**

Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, and the principles of fiscal neutrality and proportionality, must be interpreted as meaning that they do not preclude national legislation, such as that at issue in the main proceedings, which authorises tax authorities, in the event of serious differences between declared revenue and revenue estimated on the basis of sector studies, to use extrapolation, based on such sector studies, in order to determine the amount of turnover achieved by a taxable person and, consequently, to carry out a tax adjustment requiring the payment of additional value added tax (VAT), provided that that legislation and its application enable the taxable person, in compliance with the principles of fiscal neutrality, proportionality and the right of defence, to challenge the results obtained by that method, on the basis of all of the evidence to the contrary available to him, and to exercise his right of deduction in accordance with the provisions in Title X of Directive 2006/2012, which it is for the referring court to verify.

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<sup>(1)</sup> OJ C 86, 20.3.2017.