

— order the French Republic to pay the costs.

### **Pleas in law and main arguments**

The European Commission complains that France, through the settled case-law of the *Conseil d'État*, its highest administrative court, refused to give full effect to the judgment of the Court of Justice in Case C-310/09, *Ministre du Budget, des Comptes publics et de la Fonction publique v Accor SA*, in particular in imposing restrictions contrary to EU law for the reimbursement of a tax unduly levied, namely withholding tax.

In its judgment in *Accor*, handed down following a preliminary question, the Court of Justice found that the French tax rules seeking to eliminate economic double taxation of dividends maintained discrimination in respect of taxation of dividends which have their source in other EU Member States. The taxes which the Court has found to be contrary to EU law must thus be reimbursed.

The Commission considers that France is not complying with the judgment of the Court of Justice on three specific points:

- it does not take into account taxes already paid by non-French sub-subsidiaries;
- it maintains, in order to limit the right to reimbursement of the companies concerned, requirements regarding the evidence to be provided, not observing the criteria laid down by the Court of Justice;
- it limits in an absolute manner the tax credit system to a third of the dividend redistributed by a non-French subsidiary.

These violations are moreover due to the fact that the *Conseil d'État* failed to comply with its obligation to refer a question to the Court of Justice pursuant to Article 267 TFEU.

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<sup>(1)</sup> Judgment of the Court (First Chamber) of 15 September 2011 in Case C-310/09, *Ministre du Budget, des Comptes publics et de la Fonction publique v Accor SA*, EU:C:2011:581.

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### **Appeal brought on 11 July 2017 by Deza, a.s. against the judgment of the General Court (Fifth Chamber) delivered on 11 May 2017 in Case T-115/15 Deza, a.s. v ECHA**

**(Case C-419/17 P)**

(2017/C 293/28)

*Language of the case: Czech*

### **Parties**

*Appellant:* Deza, a.s. (represented by: P. Dejl, advokát)

*Other parties to the proceedings:* European Chemicals Agency, Kingdom of Denmark, Kingdom of the Netherlands, Kingdom of Sweden, Kingdom of Norway

### **Form of order sought**

- set aside the judgment of the General Court of 11 May 2017 in Case T-115/15,
- annul the decision of the ECHA of 12 December 2014, No ED/108/2014,
- order the ECHA to pay the costs incurred by the appellant in the appeal proceedings before the Court of Justice and in the previous proceedings before the General Court.

### **Grounds of appeal and main arguments**

1. The General Court interpreted and applied the REACH regulation incorrectly.

The General Court interpreted and applied the REACH regulation incorrectly. The appellant remains of the view that the decision of the ECHA was adopted ultra vires, since (i) the ECHA does not have power to supplement the existing identification of the substance DEHP under Article 57(c) of REACH by a new identification of that substance under Article 57(f) of REACH; (ii) the adoption of the decision of the ECHA was preceded by an unlawful procedure; and (iii) the decision of the ECHA circumvents the legally binding procedure laid down by the Council and the European Parliament for the adoption of generally binding/harmonised criteria for the identification of substances with endocrine-disrupting properties.

2. The General Court interpreted and applied the principle of legal certainty incorrectly.

Where (i) the decision of the ECHA created an unclear, imprecise and unforeseeable legal situation, which makes it impossible for the appellant to find out the precise extent of the obligations imposed on it; (ii) there are no generally binding/harmonised criteria for the identification of substances with endocrine-disrupting properties; and (iii) the ECHA does not have power to supplement the existing identification of the substance DEHP under Article 57(c) of REACH by an identification of it under Article 57(f) of REACH, the General Court's conclusion that the decision of the ECHA does not conflict with the principle of legal certainty is incorrect.

3. The General Court reviewed the decision of the ECHA in a manner conflicting with the requirements of judicial review of the decisions of EU institutions and bodies, and distorted the facts and evidence.

4. As a consequence of the defects set out above, the General Court infringed the appellant's rights and the principles laid down in the Convention for the Protection of Human Rights and Fundamental Freedoms and the Charter of Fundamental Rights of the European Union, in particular the right to a fair procedure, the right to peaceful enjoyment of property, and the principle of legal certainty.

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**Action brought on 14 July 2017 — European Commission v Ireland**

**(Case C-427/17)**

(2017/C 293/29)

*Language of the case: English*

**Parties**

*Applicant:* European Commission (represented by: K. Mifsud-Bonnici, E. Manhaeve, Agents)

*Defendant:* Ireland

**The applicant claims that the Court should:**

- declare that, by not ensuring that the waters collected in a combined urban waste waters and rainwater system in 14 agglomerations are retained and conducted for treatment in compliance with the requirements of the Council Directive 91/271/EEC concerning urban waste water treatment <sup>(1)</sup>, Ireland has failed to fulfil its obligations under Article 3(1) and 3(2) and Annex 1(A) and footnote 1 of the Council Directive 91/271/EEC;
- declare that, by either not putting in place secondary or equivalent treatment or not providing sufficient evidence to demonstrate compliance in this respect with the Directive 91/271/EEC with regard to 25 agglomerations, Ireland has failed to fulfil its obligations under Article 4(1) and (3) as read in conjunction with the requirements of Article 10 and Annex 1(B) of the Council Directive 91/271/EEC;
- declare that, by not ensuring that urban waste water entering collecting systems from 21 agglomerations, be, before discharge into sensitive areas, made subject to more stringent treatment than that described by Article 4 and in accordance with the requirements of Annex 1(B) of the Council Directive 91/271/EEC, Ireland has failed to fulfil its obligations under Article 5(2) and (3) as read in conjunction with the requirements of Article 10 and Annex 1(B) of the Council Directive 91/271/EEC;