

## V

*(Announcements)*

## COURT PROCEEDINGS

## COURT OF JUSTICE

**Judgment of the Court (Grand Chamber) of 8 November 2022 (request for a preliminary ruling from the Schleswig-Holsteinisches Verwaltungsgericht — Germany) — Deutsche Umwelthilfe eV v Bundesrepublik Deutschland**

**(Case C-873/19) <sup>(1)</sup>**

*(Reference for a preliminary ruling — Environment — Aarhus Convention — Access to justice — Article 9(3) — Charter of Fundamental Rights of the European Union — Article 47, first paragraph — Right to effective judicial protection — Environmental association — Standing of such an association to bring an action before a national court against EC type-approval granted to certain vehicles — Regulation (EC) No 715/2007 — Article 5(2)(a) — Motor vehicles — Diesel engine — Pollutant emissions — Valve for exhaust gas recirculation (EGR valve) — Reduction of nitrogen oxide (NOx) emissions limited by a ‘temperature window’ — Defeat device — Authorisation of such a device where the need is justified in terms of protecting the engine against damage or accident and for safe operation of the vehicle — State of the art)*

(2023/C 7/02)

*Language of the case: German*

**Referring court**

Schleswig-Holsteinisches Verwaltungsgericht

**Parties to the main proceedings**

*Applicant:* Deutsche Umwelthilfe eV

*Defendant:* Bundesrepublik Deutschland

*Joined party:* Volkswagen AG

**Operative part of the judgment**

1. Article 9(3) of the Convention on access to information, public participation in decision-making and access to justice in environmental matters, signed in Aarhus on 25 June 1998 and approved on behalf of the European Community by Council Decision 2005/370/EC of 17 February 2005, read in conjunction with Article 47 of the Charter of Fundamental Rights of the European Union, must be interpreted as precluding a situation where an environmental association, authorised to bring legal proceedings in accordance with national law, is unable to challenge before a national court an administrative decision granting or amending EC type-approval which may be contrary to Article 5(2) of Regulation (EC) No 715/2007 of the European Parliament and of the Council of 20 June 2007 on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information.



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.

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<sup>(1)</sup> OJ C 87, 16.3.2020.

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**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) <sup>(1)</sup>**

**(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.

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<sup>(1)</sup> OJ C 45, 10.2.2020.  
OJ C 54, 17.2.2020.