

**Action brought on 7 December 2016 — Fútbol Club Barcelona v Commission****(Case T-865/16)**

(2017/C 030/65)

*Language of the case: Spanish***Parties**

*Applicant:* Fútbol Club Barcelona (Barcelona, Spain) (represented by: J. Roca Sagarra, J. del Saz Cordero, R. Vallina Hoset and A. Selles Marco, lawyers)

*Defendant:* European Commission

**Form of order sought**

The applicant claims that the Court should:

- Annul European Commission Decision of 4 July 2016 on the State aid SA.29769 (2013/C) (ex 2013/NN) implemented by Spain for certain football clubs.
- In the alternative, annul Articles 4 and 5 of that decision.
- Order the Commission to pay costs.

**Pleas in law and main arguments**

In support of the action, the applicant relies on five pleas in law.

1. First plea in law, alleging that the contested decision infringes Article 49 TFEU, read in conjunction with Articles 107 and 108 TFEU, and Article 16 of the Charter of Fundamental Rights of the European Union ('the Charter'), in so far as all the reasoning in the contested decision is based on a national rule which restricts freedom of establishment.
2. Second plea in law, alleging that the contested decision infringes Article 107(1) TFEU, in so far as the Commission (i) does not analyse the applicable deductions by reference to the rate for each [type of organisation]; (ii) does not act impartially, looking for evidence both for and against, and therefore, (iii) concludes incorrectly that there was an advantage within the meaning of Article 107(1) TFEU.
3. Third plea in law, alleging that the contested decision infringes (i) the principle of the protection of legitimate expectations by ordering the recovery of the alleged aid, taking into account that, in the light of the action of the Spanish administration and the duration of the proceedings, FC Barcelona could entertain a legitimate expectation as to the legality of the tax system to which it was subject, and (ii) the fundamental requirement of legal certainty.
4. Fourth plea in law, alleging that the contested decision infringes Article 107(1) TFEU, in so far as the Commission does not take into account that the aid was justified by the internal logic of the tax system.
5. Fifth plea in law, alleging that the contested decision infringes Article 108(1) TFEU and Articles 21 and 23 of Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ 2015 L 248, p. 9), in so far as it orders the recovery of an existing aid and does not comply with the procedure for that type of aid.