

State Aid: *Autoridad Portuaria de Bilbao* Appeals General Court's Judgement Upholding Commission's Decision Regarding Bizkaia's Tax Exemption (Case C-110/23 P)

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On 22 February 2023, the *Autoridad Portuaria de Bilbao* brought an appeal before the Court of Justice of the European Union (ECJ) against the judgement of the General Court in the case of *Autoridad Portuaria de Bilbao v Commission* (T-126/20) (for prior coverage of the judgement, see [General Court Upholds Commission Decisions, Bizkaia's Tax Exemption Constitutes State Aid Incompatible With Internal Market: *Autoridad Portuaria de Bilbao v Commission* \(T-126/20\) \(14 December 2022\)](#)).

The appellant claims that the ECJ should:

- "set aside the judgment of the General Court for the reasons set out in the three grounds of appeal and declare that the judgment is vitiated by an error of law;"
- "rule on the substance of the case, in accordance with Article 61 of the Statute and Article 170 of the Rules of Procedure, by declaring that the action for annulment of the decisions contested before the General Court, brought at first instance by the *Autoridad Portuaria de Bilbao*, must be upheld;" and
- "order the Commission to pay the costs incurred by the *Autoridad Portuaria de Bilbao* both in the proceedings at first instance and in the present proceedings before the Court of Justice."

As grounds of appeal, the appellant alleged:

- (1) "an error of law, based on an infringement of Article 107(1) [[Treaty on the Functioning of the European Union \(TFEU\)](#)], in that the General Court accepted that, when the Commission found that the Exención Fiscal de Bizkaia (Biscay Tax Exemption) is an advantage, the Commission did not assess it as being a complex arrangement;"
- (2) "an error of law in that the General Court infringed Article 107 [TFEU](#), [Regulation 2015/1589](#) and the relevant case-law, in conjunction with Article 4(3) [TEU](#), Article 296 [TFEU](#) and Article 41 of the [[Charter of Fundamental Rights of the European Union](#)], by concluding that the Commission does not have to carry out a full analysis of the available data where it is clear that there is only one beneficiary of the aid scheme"; and
- (3) "an error of law in that the General Court infringed Article 108 [TFEU](#) and [Regulation 2015/1589](#), in the light of Article 4(3) [TEU](#), by finding that, in cooperation procedures, the Commission's obligations are less extensive than in investigation procedures."

A summary of the main arguments supporting the abovementioned grounds of appeal can be found in the Official Journal of the European Union ([OJ C 173/21, of 15 May 2023](#)).

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