

European Commission Appeals General Court's Judgment on Spanish Tax Scheme on Deduction for Indirect Acquisitions of Shareholdings in *Spain v. Commission* (Case T-826/14),

26 February 2024

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The European Commission has decided to [appeal](#) the General Court's judgment on the deduction for indirect acquisitions of shareholdings in foreign companies (*Spain v. Commission* (Case T-826/14), see [State Aid: General Court Annuls Commission Decision on Spanish Tax Scheme on Deduction for Indirect Acquisitions of Shareholdings in Spain v. Commission \(Case T-826/14\) \(27 September 2023\)](#)) before the Court of Justice of the European Union (ECJ), (Case C-776/23 P).

The European Commission resolved to bring the matter to the ECJ because it considers that the General Court's judgment contains various errors of law with respect to:

- the scope of the initial decisions, by failing to take account of the information provided by the Member State; and
- the effect of a binding administrative practice, by finding that it cannot broaden the scope of an aid scheme.

As a reminder:

- The Commission (with its decisions of 28 October 2009 and 12 January 2011, which concerned acquisitions of shareholding made within and outside the European Union, respectively), declared that the Spanish scheme constituted illegal State aid and must be recovered but allowed its continuation (subject to conditions) by application of the principle of the protection of legitimate expectations.
- In 2014, during an examination of a new interpretation of the Spanish tax scheme, the European Commission concluded that under the new interpretation, the measure constituted aid incompatible to the internal market, thereby ordering Spain to end it and recover the aid granted under the scheme. The General Court was then requested to annul the 2014 decision as – among others – it infringed the principle of legal certainty and of the protection of legitimate expectations.
- In September 2023, the General Court annulled the Commission's decision of [15 October 2014](#) declaring the Spanish tax scheme unlawful.

Note: On 14 December 2023, the European Commission brought appeals in front of the ECJ against the General Court's judgement in several other cases concerning the Spanish tax scheme in question. The relevant appeals can be accessed here: *Banco Santander and Others v. Commission* (Cases T-12/15, T-158/15 and T-258/15) ([Case C-777/23 P](#)), *Sociedad General de Aguas de Barcelona v. Commission* (Case

T-253/15) ([Case C-778/23 P](#)), *Telefónica and Iberdrola v. Commission* (Cases T-256/15 and T-260/15) ([Case C-779/23 P](#)), and *Ferrovial and Others v. Commission* (Cases T-252/15 and T-257/15) ([Case C-780/23 P](#)).

Spain; European Union - European Commission Appeals General Court's Judgment on Spanish Tax Scheme on Deduction for Indirect Acquisitions of Shareholdings in Spain v. Commission (Case T-826/14), (26 Feb. 2024), News IBFD.

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