

ECJ Sets Aside General Court Decision And Partially Annuls Commission State Aid Decision on Spanish Tax Lease System: *Spain v Commission, Lico Leasing and Pequeños y Medianos Astilleros Sociedad de Reconversión v Commission, Caixabank and Others v Commission* (Joined Cases C-649/20 P, C-658/20 P, C-662/20 P) (Direct)

2 February 2023

Report from IBFD Knowledge Centre

On 2 February 2023, the Court of Justice of the European Union (ECJ) gave its decision in the joined cases of *Kingdom of Spain and Others v. European Commission* ([Case C-649/20 P](#), C-658/20 P, C-662/20 P) based on a number of grounds.

"On those grounds, the Court (Fifth Chamber) hereby rules:

1. Sets aside the judgment of the General Court of the European Union of 23 September 2020, *Spain and Others v Commission* (T-515/13 RENV and T-719/13 RENV, EU:T:2020:434) to the extent that, by that judgment, the General Court dismissed the actions in so far as they sought annulment of Article 1 of Commission Decision 2014/200/EU of 17 July 2013 on the aid scheme SA.21233 C/11 (ex NN/11, ex CP 137/06) implemented by Spain – Tax scheme applicable to certain finance lease agreements, also known as the ‘Spanish Tax Lease System’, inasmuch as it designates the economic interest groupings and their investors as the sole recipients of the aid referred to in that decision, and Article 4(1) of that decision, inasmuch as it orders the Kingdom of Spain to recover in full the amount of the aid referred to in that decision from the economic interest groupings’ investors which benefited from it;
2. Dismisses the appeals as to the remainder;
3. Annuls Article 1 of Decision 2014/200 inasmuch as it designates the economic interest groupings and their investors as the sole recipients of the aid referred to in that decision;
4. Annuls Article 4(1) of that decision inasmuch as it orders the Kingdom of Spain to recover in full the amount of the aid referred to in that decision from the investors of the economic interest groupings which benefited from it;
5. Orders the Kingdom of Spain, Lico Leasing SA, Pequeños y Medianos Astilleros Sociedad de Reconversión SA, Caixabank SA, Asociación Española de Banca, Unicaja Banco SA, Liberbank SA, Banco de Sabadell SA, Banco Bilbao Vizcaya Argentaria SA, Banco Santander SA, Santander Investment SA, Naviera Séneca AIE, Industria de Diseño Textil SA (Inditex), Naviera Nebulosa de Omega AIE, Abanca

Corporación Bancaria SA, Ibercaja Banco SA, Naviera Bósforo AIE, Joyería Tous SA, Corporación Alimentaria Guissona SA, Naviera Muriola AIE, Poal Investments XXI SL, Poal Investments XXII SL, Naviera Cabo Vilaboa C-1658 AIE, Naviera Cabo Domaio C-1659 AIE, Caamaño Sistemas Metálicos SL, Blumaq SA, Grupo Ibérica de Congelados SA, RNB SL, Inversiones Antaviana SL, Banco de Albacete SA, Bodegas Muga SL and Aluminios Cortizo SAU to bear all their own costs and to pay three quarters of the costs incurred by the European Commission both at first instance and in connection with the appeals in Case C-128/16 and Joined Cases C-649/20 P, C-658/20 P and C-662/20 P;

6. Orders Decal España SA to bear its own costs;

7. Orders the European Commission to bear one quarter of the costs it has incurred both at first instance and in connection with the appeals in Case C-128/16 and Joined Cases C-649/20 P, C-658/20 P and C-662/20 P."

For a previous TNS regarding the case, see [ECJ Advocate General's Opinion: Partial Annulment of Spain v Commission, Lico Leasing and Pequeños y Medianos Astilleros Sociedad de Reconversión v Commission and Caixabank and Others v Commission \(joined cases C-649/20 P, C-658/20 P and C-662/20 P\) – State Aid Selectivity and Calculation of Aid Recovery \(12 Oct. 2022\)](#),.

A more substantial report containing details of the ECJ's decision will be published in the ECJ Case Law collection in due course.

European Union; Spain - ECJ Sets Aside General Court Decision And Partially Annuls Commission State Aid Decision on Spanish Tax Lease System:Spain v Commission, Lico Leasing and Pequeños y Medianos Astilleros Sociedad de Reconversión v Commission, Caixabank and Others v Commission (Joined Cases C-649/20 P, C-658/20 P, C-662/20 P) (Direct) (02 Feb. 2023), News IBFD.

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