

Commission Decision (EU) 2016/2391 of 4 July 2016 on the State aid SA.29769 (2013/C) (ex 2013/NN) implemented by Spain for certain football clubs (notified under document C(2016) 4046) (Only the Spanish text is authentic) (Text with EEA relevance)

- Article 1 By reserving the right to enjoy the preferential corporate tax...
- Article 2 Individual aid granted under the scheme referred to in Article...
- Article 3 Individual aid granted under the scheme referred to in Article...
- Article 4 (1) The Kingdom of Spain shall recover the incompatible aid...
- Article 5 (1) Recovery of the aid granted under the scheme referred...
- Article 6 (1) Within two months following notification of this Decision, The...
- Article 7 This Decision is addressed to the Kingdom of Spain.
Signature

Changes to legislation: There are currently no known outstanding effects for the Commission Decision (EU) 2016/2391. (See end of Document for details)

- (1) [OJ C 69, 7.3.2014, p. 115.](#)
- (2) Cf. footnote 1.
- (3) Ley 10/1990, de 15 de octubre, del Deporte, BOE de 17 de Octubre de 1990.
- (4) ‘Those clubs, that at the time of enactment of this law participate in official football competitions at a professional level and had had a positive shareholders equity balance in all of the audits performed at the request of the Professional Football League since the 1985-1986 season, shall maintain their current legal structure unless their assemblies agree to the contrary...’
- (5) Source: Deloitte Football Money League 2015, <http://www2.deloitte.com/content/dam/Deloitte/na/Documents/audit/gx-football-money-league-2015.pdf>.
- (6) Case C-415/93 *Bosman* ECLI:EU:C:1995:463, paragraph 73, Case C-519/04 P *Meca-Medina and Majcen v Commission* ECLI:EU:C:2006:492, paragraph 22, and C-325/08 *Olympique Lyonnais* ECLI:EU:C:2010:143, paragraph 23.
- (7) Joined Cases C-428/06 to 434/06 *UGT-Rioja* ECLI:EU:C:2008:488.
- (8) Case C-174/00 *Kennemer Golf* ECLI:EU:C:2002:200.
- (9) Joined Cases C-78/08 to C-80/08 *Paint Graphos and others* ECLI:EU:C:2011:550.
- (10) Confidential information.
- (11) BOE No 288, de 28 de noviembre de 2014, p. 96939.
- (12) Source: Recaudación y estadísticas del sistema tributario español 2001-2011, http://www.minhap.gob.es/Documentacion/Publico/Tributos/Estadisticas/Recaudacion/2011/Analisis_estadistico_recaudacion_2011.pdf.
- (13) [OJ C 384, 10.12.1998, p. 3.](#)
- (14) Joined Cases C-78/08 to C-80/08 *Paint Graphos and others* ECLI:EU:C:2011:550.
- (15) BOE No 39, de 14 de febrero de 1981, p. 3408.
- (16) 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 L 248, 24.9.2015, p. 9.](#))
- (17) See Case C-399/08 P *Commission v Deutsche Post* ECLI:EU:C:2010:481, paragraph 38 and the case-law cited therein.
- (18) See Case C-399/08 P *Commission v Deutsche Post* ECLI:EU:C:2010:481, paragraph 39 and the case-law cited therein.
- (19) Case C-387/92 *Banco Exterior de España* ECLI:EU:C:1994:100, paragraph 13; Case C-156/98 *Germany v Commission* ECLI:EU:C:2000:467, paragraph 25; Case C-6/97 *Italy v Commission* ECLI:EU:C:1999:251, paragraph 15; Case C-172/03 *Heiser* ECLI:EU:C:2005:130, paragraph 36.
- (20) Joined Cases C-180/98 to C-184/98 *Pavlov and Others* ECLI:EU:C:2000:428, paragraph 74.
- (21) Joined Cases 209/78 to 215/78 and 218/78 *Van Landewyck* ECLI:EU:C:1980:248, paragraph 88; Case C-244/94 *FFSA and Others* ECLI:EU:C:1995:392, paragraph 21; Case C-49/07 *MOTOE* ECLI:EU:C:2008:376, paragraphs 27 and 28.
- (22) Case C-415/93 *Bosman* ECLI:EU:C:1995:463, paragraph 73, Case C-519/04 P *Meca-Medina and Majcen v Commission* ECLI:EU:C:2006:492, paragraph 22, and C-325/08 *Olympique Lyonnais* ECLI:EU:C:2010:143, paragraph 23.
- (23) Most recently in the judgment of 8 September 2011 in Joined Cases C-78/08 to C-80/08 *Paint Graphos and others* ECLI:EU:C:2011:550.
- (24) Cf. paragraph 25 of the Commission notice on the application of State aid rules to measures relating to direct business taxation ([OJ C 384, 10.12.1998, p. 3.](#))
- (25) Case T-211/05 *Italian Republic v Commission* ECLI:EU:T:2009:304, paragraph 125.
- (26) Joined Cases C-78/08 to C-80/08 *Paint Graphos and others* ECLI:EU:C:2011:550.
- (27) Joined Cases C-78/08 to C-80/08 *Paint Graphos and others* ECLI:EU:C:2011:550, paragraph 61.
- (28) Joined Cases C-78/08 to C-80/08 *Paint Graphos and others* ECLI:EU:C:2011:550, paragraph 71.

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- (29) This reasoning is similar to the one in Case T-211/05 *Italian Republic v Commission* ECLI:EU:T:2009:304, paragraphs 120 and 121 (confirmed by the Court of Justice in Case C-458/09 P — *Italy v Commission* ECLI:EU:C:2011:769, paragraph 60), which considered selective a tax advantage available only to undertakings admitted to listing on a regulated market during a brief period, whereas all other undertakings were excluded from the advantages conferred by that scheme because they could not satisfy the conditions required for listing during the period covered by the aid scheme.
- (30) Joined Cases C-78/08 to C-80/08 *Paint Graphos and others* ECLI:EU:C:2011:550, paragraph 70.
- (31) Case C-172/03 *Heiser* ECLI:EU:C:2005:130, paragraph 55 Joined Cases C-71/09 P, C-73/09 P and C-76/09 P *Comitato 'Venezia vuole vivere' and Others v Commission* ECLI:EU:C:2011:368, paragraph 136. See also Case C-156/98 *Germany v Commission* ECLI:EU:C:2000:467, paragraph 30, and the case-law cited.
- (32) Cases C-241/94 *France v Commission* ECLI:EU:C:1996:353, paragraph 20, C-5/01 *Belgique v Commission* ECLI:EU:C:2002:754, paragraph 45, and C-458/09 P *Italy v Commission* ECLI:EU:C:2011:769, paragraph 60.
- (33) The Commission notes in that context that there appears to be a sport limited company established in the Territorio Histórico de Bizkaia, namely Basket Bilbao Berri SAD.
- (34) Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EU) 2015/1589 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union ([OJ L 140, 30.4.2004, p. 1](#)).
- (35) Case C-81/10 P *France Télécom SA v European Commission* ECLI:EU:C:2011:811, paragraph 73.
- (36) The exceptions provided for in Article 107(2) TFEU concern: (a) aid of a social character granted to individual consumers; (b) aid to make good the damage caused by natural disasters or exceptional occurrences; and (c) aid granted to certain areas of the Federal Republic of Germany.
- (37) The exceptions provided for in Article 107(3) TFEU concern: (a) aid to promote the development of certain areas; (b) aid for certain important projects of common European interest or to remedy a serious disturbance in the economy of the Member State; (c) aid to develop certain economic activities or areas; (d) aid to promote culture and heritage conservation; and (e) aid specified by a Council decision.
- (38) Case T-68/03 *Olympiaki Aeroporia Ypiresies v Commission* ECLI:EU:T:2007:253, paragraph 34.
- (39) See Case C-70/72 *Commission v Germany* ECLI:EU:C:1973:87, paragraph 13.
- (40) See Joined Cases C-278/92 to C-280/92 *Spain v Commission* ECLI:EU:C:1994:325, paragraph 75.
- (41) See Case C-75/97 *Belgium v Commission* ECLI:EU:C:1999:311, paragraphs 64-65.
- (42) Case C-81/10 P *France Télécom SA v European Commission* ECLI:EU:C:2011:811, paragraphs 80 to 85.
- (43) Case C-148/04 *Unicredito* ECLI:EU:C:2005:774, paragraphs 118, 119.

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