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Luxembourg and Amazon prevail in a EUR 250 million tax ruling dispute at the CJEU

In a pivotal legal battle unfolding at the Court of Justice of the European Union (CJEU), Grand Duchy of Luxembourg and the Seattle-based e-commerce platform operator Amazon have emerged victorious in a longstanding dispute over tax benefits granted to Amazon in a 20 year old tax ruling.

As background to the case, in 2003 Luxembourg tax authorities – upon request of Amazon and their tax advisors - issued a tax ruling allowing several Luxembourg Amazon subsidiaries to reduce their taxable base for the purposes of Luxembourg corporate income tax.

Then, the European Commission, in a 2017 decision, declared the tax ruling incompatible with the internal market rules, qualifying the advantages gained by Amazon as State aid. Luxembourg and Amazon, deeply unhappy with European Commissions' decision, started legal proceedings in EU courts and a multi-year full-scale legal battle then ensued.

As events unfolded, in a May 2021 judgment, the General Court ruled that the European Commission had failed to satisfactorily demonstrate that Amazon gained an undue reduction of its actual tax burden (where the General Court wrongly recognized the application of the arm's length principle as an autonomous EU concept in the case) and leading to the annulment of the European Commission's decision. This did not stop the European Commission from giving up the fight it took on Amazon and the European Commission filed an appeal against the General Court with the CJEU in a hope of a better outcome this time. However, even on appeal the situation did not improve for the European Commission as the CJEU rendered a judgment on 14 December 2023 by which it decisively rejected the European Commission's appeal confirming that the European Commission's decision had to be annulled. Surprisingly, although the two courts reached the same conclusion to annul the contested decision, their grounds differ significantly.



As a result of this latest CJEU judgment, Amazon gets to keep EUR 250 million it would otherwise need to pay back to Luxembourg, the outcome that seems to satisfy all the parties involved in the dispute other than the European Commission.

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