

**Operative part of the judgment**

Articles 47(2) and 48(3) of Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts must be interpreted as not precluding national legislation which excludes the possibility for an economic operator taking part in a tendering procedure to replace an auxiliary undertaking that has lost required qualifications after the submission of its tender and which results in the automatic exclusion of that operator.

<sup>(1)</sup> OJ C 251, 11.7.2016.

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**Judgment of the Court (First Chamber) of 20 September 2017 — European Commission v Frucona Košice a.s.**

**(Case C-300/16 P) <sup>(1)</sup>**

**(Appeal — State aid — Concept of ‘aid’ — Concept of ‘economic advantage’ — Private creditor test — Conditions of applicability — Application — Investigation obligations on the European Commission)**

(2017/C 382/27)

Language of the case: English

**Parties**

**Appellant:** European Commission (represented by: K. Walkerová, L. Armati, T. Maxian Rusche and B. Stromsky, acting as Agents)

**Other party to the proceedings:** Frucona Košice a.s. (represented by: K. Lasok QC, B. Hartnett, Barrister, J. Holmes QC, and O. Geiss, Rechtsanwalt)

**Operative part of the judgment**

*The Court:*

1. Dismisses the appeal;
2. Orders the European Commission to pay the costs.

<sup>(1)</sup> OJ C 260, 18.7.2016.

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**Judgment of the Court (Fifth Chamber) of 13 September 2017 — Salvatore Aniello Pappalardo and Others v European Commission**

**(Case C-350/16 P) <sup>(1)</sup>**

**(Appeal — Common fisheries policy — Non-contractual liability of the European Union — Claim for compensation — Regulation (EC) No 530/2008 — Emergency measures adopted by the European Commission — Sufficiently serious breach of a rule of law — Whether possible to rely on that breach — Principle of non-discrimination — Res judicata)**

(2017/C 382/28)

Language of the case: Italian

**Parties**

**Appellants:** Salvatore Aniello Pappalardo, Pescatori La Tonnara Soc. coop., Fedemar Srl, Testa Giuseppe & C. Snc, Pescatori San Pietro Apostolo Srl, Camplone Arnaldo & C. Snc di Camplone Arnaldo & C., Valentino Pesca Sas di Camplone Arnaldo & C. (represented by: V. Cannizzaro and L. Caroli, avvocati)