

*Other parties to the proceedings:* European Commission, Kingdom of Denmark, TV2/Danmark A/S

### **Form of order sought**

The appellant claims that the Court should:

- set aside the judgment in Case T-125/12, Viasat Broadcasting UK Ltd v Commission, and
  - annul Commission Decision 2011/839/EU <sup>(1)</sup> of 20 April 2011 on measures adopted by the Danish state in favour of TV2/Danmark (EUT 2011 L 340, s. 1), and
  - order the defendant at first instance to pay the costs of Viasat both incurred in the first instance and before your Court
- alternatively,
- set aside the judgment under appeal, and
  - refer the case back to the General Court, and
  - reserve the costs of the proceedings at first instance and on.

### **Pleas in law and main arguments**

In support of the form of order sought, Viasat contends that the General Court erred in law when stating that in its assessment under Article 106(2) TFEU the Commission was not required to take account of the fact that aid to TV2 had been granted without observing fundamental principles of transparency and cost efficiency.

More in particular, Viasat contends that the General Court erred in law (1) by relying on the M6 judgment and the related case law to dismiss Viasat's claims, (2) by holding that Viasat's arguments lead to a 'logical impasse' (3) by rejecting the significance of the 2005 and 2011 SGEI Communications and the 2009 Broadcasting Communication (4) by holding that the 2001 Broadcasting Communication prevented the Commission from applying the methodology which, in Viasat's view, flows from Article 106(2) TFEU.

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<sup>(1)</sup> Commission Decision of 20 April 2011 on the measures implemented by Denmark (C 2/03) for TV2/Danmark OJ L 340, p. 1.

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## **Action brought on 14 December 2015 — European Commission v Portuguese Republic**

**(Case C-665/15)**

**(2016/C 059/10)**

*Language of the case: Portuguese*

### **Parties**

*Applicant:* European Commission (represented by: P. Guerra e Andrade and J. Hottiaux, acting as Agents)

*Defendant:* Portuguese Republic

### **Form of order sought**

- Declare that, by failing to be connect to the European Union driving licence network, the Portuguese Republic has failed to fulfil its obligations under Article 7(5)(d) of Directive 2006/126/EC <sup>(1)</sup>.

— order Portuguese Republic to pay the costs.

### **Pleas in law and main arguments**

It is apparent from Directive 2006/126 and from case-law that a Member State which issues a driving licence is required to verify whether the minimum requirements for the issue of driving licences are fulfilled.

If the Portuguese Republic is not connected to the European Union driving licence network (RESPER), it cannot verify whether the minimum requirements for the issue of driving licences are fulfilled. It cannot, in particular, verify whether the applicant already holds a driving licence in another Member State.

Moreover, as the Portuguese Republic is not connected to RESPER, other Member States cannot verify, together with Portugal, whether the minimum requirements for the issue of driving licences are fulfilled.

It should be added that other Member States cannot carry out any form of control, together with Portugal, in cases in which the minimum requirements for the issue of driving licences are clearly not fulfilled.

Accordingly, as Portugal is not connected to RESPER, it undermines the essential purpose of the requirement to be connected to the network and of Directive 2006/126, namely to improve road safety and facilitate the free movement of persons.

Article 7(5)(d) of Directive 2006/126 clearly establishes that Member States must use the EU driving licence network, in particular in order to carry out checks and especially in order to prevent a licence holder having more than one driving licence.

Under Article 16(2) of the directive, Member States were required to apply Article 7(5) of the directive as from 19 January 2013.

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<sup>(1)</sup> Directive 2006/126/EC of the European Parliament and of the Council of 20 December 2006 on driving licences (recast) (OJ 2006 L 403, p. 18).