

Pleas in law and main arguments

The applicant contests the Commission decision of 1 October 2014 (with a corrigendum of 13 April 2015) as it decides that the sale of the assets of the Nürburgring complex does not constitute State aid, that the sale of the assets does not lead to a financial/economic continuity between the sellers and the acquirer of the assets and that any potential recovery of incompatible State aid will not concern the buyer of the assets.

In support of the action, the applicant relies on the following pleas in law:

1. First plea in law, alleging an erroneous application of Article 107(1) TFUE by the Commission as the Commission misunderstood the meaning of an open, transparent and non-discriminatory tender procedure with the sale to the highest bidder and further failed to investigate the State involvement in the sale process appropriately;
2. Second plea in law, alleging an erroneous application of Article 107(1) TFUE by the Commission when it comes to the conclusion that the temporary lease contract of the ring's asset does not lead to State aid and that the sellers did not illegitimately influence the further sale of the assets to a Russian investor;
3. Third plea in law, alleging an erroneous application of the principle of financial/economic continuity by the Commission;
4. Fourth plea in law, alleging a failure to initiate a formal investigation procedure by the Commission;
5. Fifth plea in law, alleging an infringement of the applicant's rights under Article 20(2) of Regulation No 659/1999 by the Commission;
6. Sixth plea in law, alleging an infringement of the principles of an impartial and diligent investigation by the Commission;
7. Seventh plea in law, alleging an erroneous application of Article 296(2) TFUE by the Commission.

Appeal brought on 9 July 2015 by CJ against the judgment of the Civil Service Tribunal of 29 April 2015 in joined cases F-159/12 and F-161/12, CJ v ECDC

(Case T-370/15 P)

(2015/C 311/56)

Language of the case: English

Parties

Appellant: CJ (Agiros Stefanos, Greece) (represented by: V. Kolias, lawyer)

Other party to the proceedings: European Centre for Disease Prevention and Control (ECDC)

Form of order sought by the appellant

The appellant claims that the Court should:

- set aside the judgment of the European Union Civil Service Tribunal of 29 April 2015 in Joined Cases F-159/12 and F-161/12, *CJ v ECDC*, insofar as it:
 - dismissed the action in Case F-159/12 in part and ordered the appellant to bear his own costs;
 - dismissed the action in Case F-161/12 in whole and ordered the appellant to bear his own costs and pay those incurred by the ECDC;

- ordered the appellant to pay the Tribunal a sum of EUR 2 000 in order to refund part of the avoidable expenditure which the Tribunal was forced to incur;
- consequently, in the event that the appeal is declared well founded:
 - annul the contested decision of 24 February 2012;
 - order the ECDC to pay compensation, assessed *ex aequo et bono* at EUR 80 000, for the non-material harm sustained by the appellant and alleged in the first head of claim in Case F-161/12;
 - order the ECDC to pay compensation, assessed *ex aequo et bono* at EUR 56 800 for the non-material harm sustained by the appellant and alleged in the incidental claims for compensation brought during the trial at first instance;
- order the ECDC to pay all costs of the proceedings at first instance and on appeal.

Pleas in law and main arguments

In support of the appeal, the appellant relies on seven pleas in law.

1. First plea in law, alleging that the Tribunal infringed the principle *audi et alteram partem* in rejecting the appellant's statement of reply as inadmissible because its body and annexes did not directly relate to certain annexes of the ECDC defence;
 2. Second plea in law, alleging that the Tribunal failed to adjudicate incidental heads of claim raised for the first time in the course of the proceedings, for compensation of non-material harm caused by certain statements made in the ECDC defence;
 3. Third plea in law, alleging that the Tribunal infringed Article 91(1) of the Staff Regulations in considering itself barred from examining the verity of allegations of financial mismanagement at ECDC inasmuch as they had previously been examined by OLAF;
 4. Fourth plea in law, alleging that the Tribunal misinterpreted;
 - Article 47(b)(ii), read in conjunction with Article 86, of the Condition of Employment of Other Servants of the European Union ('CEOS') in holding that the appellant could be summarily dismissed for insubordination without a disciplinary process;
 - Article 41(2)(a) of the Charter of Fundamental Rights of the European Union in relation to the time allowed for the appellant to put his view before being dismissed;
 - Article 48(1) of the Charter of Fundamental Rights of the European Union in accepting as proven accusations that the appellant had engaged in criminal conduct, although he had been neither charged with, nor convicted of, such conduct before a criminal court;
 - The employer's duty of care in holding that ECDC did not need to afford the appellant certain rights of defence during an administrative inquiry under Annex IX to the Staff Regulations;
 5. Fifth plea in law, alleging that the Tribunal misinterpreted, the first, fifth and eighth plea in law and the order sought;
 6. Sixth plea in law, alleging that the Tribunal made an erroneous legal classification of certain facts;
 7. Seventh plea in law, alleging that the Tribunal distorted certain evidence.
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