

Action brought on 6 February 2008 — ThyssenKrupp Acciai Speciali Terni v Commission

(Case T-62/08)

(2008/C 92/79)

Language of the case: Italian

Parties

Applicant: ThyssenKrupp Acciai Speciali Terni SpA (Terni, Italy) (represented by: T. Salonico, G. Pellegrino, G. Pellegrino, G. Barone, lawyers)

Defendant: Commission of the European Communities

Form of order sought

- declare that the contested decision is unlawful and annul that decision in its entirety inasmuch as it regards as State aid the contested measure, which in fact constitutes a lawful continuation of the measure by which the Italian State granted compensation to Terni SpA (and its assignees) for the expropriation of its electricity plants which occurred in 1962-63;
- order the defendant to pay the costs of the proceedings;
- in the alternative, annul the decision insofar as it:
 - (a) states that Italy unlawfully paid State aid to ThyssenKrupp, Cementir and Nuova Terni Industrie Chimiche in breach of Article 88(3) of the EC Treaty;
 - (b) states that there are amounts to be recovered from ThyssenKrupp, Cementir and Nuova Terni Industrie Chimiche; and consequently
 - (c) orders Italy to recover those amounts plus interest without delay;
- in the further alternative, annul the contested decision insofar as it orders Italy to recover the State aid plus interest without delay, since that recovery infringes the general principle of the protection of legitimate expectations.

Pleas in law and main arguments

The contested decision in the present case is the same as that in Case T-53/08 *Italy v Commission*.

The pleas and the main arguments relied on are similar to those put forward in that case. In addition to infringement of Articles 87 and 88 of the EC Treaty on account of erroneous interpretation of the extension of the compensatory tariff for the former Terni companies, in the alternative the applicant also pleads:

- infringement of Article 88 of the EC Treaty in relation to failure to consider that the contested measure had in fact not yet been implemented and therefore the obligation of

prior notification had not been infringed and there were no amounts to recover;

- infringement of Article 14(1) of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty, and unlawfulness of the order for recovery in the contested decision owing to breach of the principle of the protection of legitimate expectations.

Action brought on 6 February 2008 — Cementir Italia v Commission

(Case T-63/08)

(2008/C 92/80)

Language of the case: Italian

Parties

Applicant: Cementir Italia Srl (Rome, Italy) (represented by: T. Salonico, G. Pellegrino, G. Pellegrino, G. Barone, lawyers)

Defendant: Commission of the European Communities

Form of order sought

- declare that the contested decision is unlawful and annul that decision in its entirety inasmuch as it regards as State aid the contested measure, which in fact constitutes a lawful continuation of the measure by which the Italian State granted compensation to Terni SpA (and its assignees) for the expropriation of its electricity plants which occurred in 1962-63;
- order the defendant to pay the costs of the proceedings;
- in the alternative, annul the decision insofar as it:
 - (a) states that Italy unlawfully paid State aid to ThyssenKrupp, Cementir and Nuova Terni Industrie Chimiche in breach of Article 88(3) of the EC Treaty;
 - (b) states that there are amounts to be recovered from ThyssenKrupp, Cementir and Nuova Terni Industrie Chimiche; and consequently
 - (c) orders Italy to recover those amounts plus interest without delay;
- in the further alternative, annul the contested decision insofar as it orders Italy to recover the State aid plus interest without delay, since that recovery infringes the general principle of the protection of legitimate expectations.