

— Orders the *Confederación Empresarial Vasca (Confebask)*, the *Cámara Oficial de Comercio e Industria de Álava*, the *Cámara Oficial de Comercio, Industria y Navegación de Vizcaya* and the *Cámara Oficial de Comercio, Industria y Navegación de Guipúzcoa* to each bear their own costs.

4. In Cases T-265/01, T-266/01 and T-270/01 orders Confebask to bear its own costs and to pay the costs of the Commission and the *Comunidad autónoma de La Rioja*.

(¹) OJ C 331, 24.11.2001.

Judgment of the Court of First Instance of 9 September 2009 — *Diputación Foral de Álava and Others v Commission*

(Joined Cases T-230/01 to T-232/01 and T-267/01 to T-269/01) (¹)

(State aid — Tax advantages granted by a territorial entity within a Member State — Reduction of the tax base for corporation tax — Decisions declaring aid schemes incompatible with the common market and requiring recovery of aid paid out — Trade association — Admissibility — Withdrawal of a plea in law — Classification as new aid or as existing aid — Principle of the protection of legitimate expectations — Principle of legal certainty — Principle of proportionality)

(2009/C 256/34)

Language of the case: Spanish

Parties

Applicants in Case T-230/01: Territorio Histórico de Álava — *Diputación Foral de Álava* (Spain); and *Comunidad autónoma del País Vasco — Gobierno Vasco* (Spain) (represented initially by: R. Falcón Tella, and subsequently by M. Morales Isasi and I. Sáenz-Cortabarría Fernández, lawyers)

Applicants in Case T-231/01: Territorio Histórico de Vizcaya — *Diputación Foral de Vizcaya* (Spain); and *Comunidad autónoma del País Vasco — Gobierno Vasco* (represented initially by: R. Falcón Tella, and subsequently by M. Morales Isasi and I. Sáenz-Cortabarría Fernández, lawyers)

Applicants in Case T-232/01: Territorio Histórico de Guipúzcoa — *Diputación Foral de Guipúzcoa* (Spain); and *Comunidad autónoma del País Vasco — Gobierno Vasco* (represented initially by: R. Falcón Tella, and subsequently by M. Morales Isasi and I. Sáenz-Cortabarría Fernández, lawyers)

Applicant in Cases T-267/01 to T-269/01: *Confederación Empresarial Vasca (Confebask)* (Bilbao, Spain) (represented by: M. Araujo Boyd, L. Ortiz Blanco and V. Sopena Blanco, lawyers)

Defendant: Commission of the European Communities (represented initially by: J. Buendía Sierra, and subsequently by F. Castillo de la Torre and C. Urraca Caviedes, acting as Agents)

Interveners in support of the applicants in Case T-230/01: *Cámara Oficial de Comercio e Industria de Álava* (Spain) (represented by: I. Sáenz-Cortabarría Fernández and M. Morales Isasi, lawyers); and *Confederación Empresarial Vasca (Confebask)* (Bilbao) (represented initially by: M. Araujo Boyd and R. Sanz, and subsequently by Araujo Boyd, L. Ortiz Blanco and V. Sopena Blanco, lawyers)

Interveners in support of the applicants in Case T-231/01: *Cámara Oficial de Comercio, Industria y Navegación de Vizcaya* (Spain) (represented by: I. Sáenz-Cortabarría Fernández and M. Morales Isasi, lawyers); and *Confederación Empresarial Vasca (Confebask)* (Bilbao) (represented initially by: M. Araujo Boyd and R. Sanz, and subsequently by Araujo Boyd, L. Ortiz Blanco and V. Sopena Blanco, lawyers)

Interveners in support of the applicants in Case T-232/01: *Cámara Oficial de Comercio, Industria y Navegación de Guipúzcoa* (Spain) (represented by: I. Sáenz-Cortabarría Fernández and M. Morales Isasi, lawyers); and *Confederación Empresarial Vasca (Confebask)* (Bilbao) (represented initially by: M. Araujo Boyd and R. Sanz, and subsequently by Araujo Boyd, L. Ortiz Blanco and V. Sopena Blanco, lawyers)

Intervener in support of the defendant: *Comunidad Autónoma de la Rioja* (Spain) (represented initially by: A. Bretón Rodríguez, J. Criado Gámez and I. Serrano Blanco, lawyers)

Re:

Application in Cases T-230/01 and T-267/01 for annulment of Commission Decision 2002/892/EC of 11 July 2001 on the State aid scheme applied by Spain to certain newly established firms in Álava (OJ 2002 L 314, p. 1); application in Cases T-231/01 and T-268/01 for annulment of Commission Decision 2002/806/EC of 11 July 2001 on the State aid scheme applied by Spain to certain newly established firms in Vizcaya (OJ 2002 L 279, p. 35), and application in Cases T-232/01 and T-269/01 for annulment of the Commission decision 2002/894/EC of 11 July 2001 on the State aid scheme applied by Spain to certain newly established firms in Guipúzcoa (OJ 2002 L 174, p. 31).

Operative part of the judgment

The Court:

1. Joins Cases T-230/01 to T-231/01, T-232/01, T-267/01, T-268/01 and T-269/01 for the purposes of judgment.
2. Dismisses the actions.
3. In Cases T-230/01 to T-232/01:

— Orders the Territorio Histórico de Álava — Diputación Foral de Álava, the Territorio Histórico de Vizcaya — Diputación Foral de Vizcaya, the Territorio Histórico de Guipúzcoa — Diputación Foral de Guipúzcoa and the Comunidad autónoma del País Vasco — Gobierno Vasco to each bear their own costs and to pay the costs of the Commission and the Comunidad autónoma de La Rioja;

— Orders the Confederación Empresarial Vasca (Confebask), the Cámara Oficial de Comercio e Industria de Álava, the Cámara Oficial de Comercio, Industria y Navegación de Vizcaya and the Cámara Oficial de Comercio, Industria y Navegación de Guipúzcoa to each bear their own costs.

4. In Cases T-267/01 to T-269/01 orders Confebask to bear its own costs and to pay the costs of the Commission and the Comunidad autónoma de La Rioja.

(¹) OJ C 348, 8.12.2001.

Judgment of the Court of First Instance of 9 September 2009 — Clearstream v Commission

(Case T-301/04) (¹)

(Competition — Abuse of a dominant position — Financial services — Decision finding an infringement of Article 82 EC — Refusal to provide cross-border clearing and settlement services — Discriminatory pricing — Relevant market — Imputability of the infringement)

(2009/C 256/35)

Language of the case: German

Parties

Applicants: Clearstream Banking AG (Frankfurt am Main, Germany) and Clearstream International SA (Luxembourg, Luxembourg) (represented by: H. Satzky and B. Maassen, lawyers)

Defendant: Commission of the European Communities (represented initially by: T. Christoforou, A. Nijenhuis and M. Schneider, and subsequently by A. Nijenhuis and R. Sauer, acting as Agents)

Re:

Application for annulment of Commission Decision C (2004) 1958 final of 2 June 2004, relating to a proceeding under Article 82 [EC] (Case COMP/38.096 — Clearstream (Clearing and Settlement)).

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Clearstream Banking AG and Clearstream International to pay the costs.

(¹) OJ C 262, 23.10.2004.

Judgment of the Court of First Instance of 4 September 2009 — Italy v Commission

(Case T-211/05) (¹)

(State aid — Aid scheme implemented by the Italian authorities in favour of newly listed companies — Decision declaring the aid incompatible with the common market and ordering its recovery — Obligation to state reasons — Selective nature — Effect on trade between Member States — Adverse effect on competition)

(2009/C 256/36)

Language of the case: Italian

Parties

Applicant: Italian Republic (represented initially by I. Braguglia, subsequently by R. Adam and lastly by I. Bruni, acting as Agents, and P. Gentili, lawyer)

Defendant: Commission of the European Communities (represented by: V. Di Bucci and E. Righini, acting as Agents)

Re:

Application for annulment of Commission Decision 2006/261/EC of 16 March 2005 on aid scheme C 8/2004 (ex NN 164/2003) implemented by Italy in favour of newly listed companies (OJ 2006 L 94, p. 42).

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders the Italian Republic to pay the costs.

(¹) OJ C 182, 23.7.2005.

Judgment of the Court of First Instance of 8 September 2009 — AceaElectrabel v Commission

(Case T-303/05) (¹)

(State aid — Energy sector — Investment aid for the construction of a distance heating system — Decision declaring the aid compatible with the common market — Obligation to repay first aid declared unlawful and incompatible with the common market — Concept of economic unit)

(2009/C 256/37)

Language of the case: Italian

Parties

Applicant: AceaElectrabel Produzione SpA (represented by: L. Radicati di Brozolo, M. Merola, C. Bazoli and F. D'Alessandri, lawyers)

Defendant: Commission of the European Communities (represented by: V. DiBucci and E. Righini, agents)

Intervener in support of the applicant: Electrabel (represented by: L. Radicati di Brozolo, M. Merola and C. Bazoli, lawyers)