

Action brought on 16 December 2010 — Vivendi v Commission**(Case T-568/10)**

(2011/C 72/32)

*Language of the case: French***Parties**

Applicant: Vivendi (Paris, France) (represented by: O. Fréget, J.-Y. Ollier and M. Struys, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- declare the present action admissible;
- annul the Commission's decision of 1 October 2010 by which it rejected the complaint lodged by Vivendi on 2 March 2009 (registered under number 2009/4267), for infringement by the French Republic of Directive 2002/77/EC of 16 December 2002 on competition in the markets for electronic communications networks and services and, consequently, Article 106(1) TFEU, by granting a regulatory advantage in refusing ARCEP the right to use its powers to force the incumbent operator to reimburse the operators seeking access to the local loop the sums charged in excess of the costs incurred in providing the service which is subject to cost-orientation;
- order the Commission to pay the costs incurred by the applicant before the General Court.

Pleas in law and main arguments

In support of its action, the applicant raises four pleas as regards the substance:

1. The first plea is based on an error of law concerning the definition of a 'special right' within the meaning of Directive 2002/77/EC. ⁽¹⁾
2. The second plea is based on the Commission's failure to comply with its duty to ensure application under Article 106(3) TFEU.
3. The third plea is based on an error of law, in so far as the Commission wrongly considered that the obligation to orientate certain tariffs towards costs is not laid down in a European Union directive, but is the responsibility of the national regulator.
4. The fourth plea is based on an error of law in that the Commission considered that the rights of the private

operators were not infringed since they could resort to the national commercial law courts to obtain reimbursements of the excessively high sums levied by France Télécom, given that the complexity of such a case makes it impossible to fully exercise the right to reimbursement before those courts.

⁽¹⁾ Commission Directive 2002/77/EC of 16 September 2002 on competition in the markets for electronic communications networks and services (OJ 2002 L 249, p. 21).

Action brought on 21 December 2010 — Commission v Commune de Millau**(Case T-572/10)**

(2011/C 72/33)

*Language of the case: French***Parties**

Applicant: European Commission (represented by: S. Petrova, Agent, and E. Bouttier, avocat)

Defendant: Commune de Millau (Millau, France)

Form of order sought

The applicant claims that the General Court should:

- declare that the Commune de Millau (municipality of Millau) is jointly and severally liable for the undertakings made by, and the debts of, the Société d'économie mixte d'équipement de l'Aveyron (the Aveyron semi-public installations company) (SEMEA) with respect to the European Commission;
- order the Commune de Millau to pay jointly and severally with SEMEA to the applicant the principal sum of EUR 41 012, plus interest outstanding since 10 March 1992 or, in the alternative, from 27 April 1993;
- order the capitalisation of interest;
- order the Commune de Millau to pay jointly and severally with SEMEA the sum of EUR 5 000 in respect of SEMEA's wrongful obstruction of legal process;
- order the Commune de Millau to pay jointly and severally with SEMEA the costs of the present case;
- order the joining of the present case with Case T-168/10 *Commission v SEMEA*