

Pleas in law and main arguments

By its application, the applicant seeks annulment of Commission Decision C(2011) 4376 final of 29 June 2011 relating to State aid No NN 10/2010 concerning the action taken by the interprofession nationale porcine (French pig and pork producers association) (INAPORC), which is financed by 'voluntary' contributions which have been made compulsory (CVCs), levied by INAPORC on the members it represents. The Commission considered the CVCs to be measures constituting State aid compatible with the internal market.

In support of the action, the applicant puts forward a single plea in law, alleging that the concept of State aid within the meaning of Article 107(1) TEU was misapplied when the Commission held that the action taken by INAPORC, using income deriving from the CVCs, was imputable to the State and was financed by State resources.

The applicant argues that the action taken by INAPORC, using income deriving from the CVCs, meets the requirements set by the Court of Justice in Case C-345/02 *Pearle and Others* [2004] ECR I-7139 if compulsory contributions levied by a body representing undertakings in an economic sector are not to be regarded as State resources which finance action imputable to the State, since:

- the action taken by INAPORC is determined by the professional body which represents undertakings in the agricultural sector concerned and is not an instrument for implementing State policy;
- the action taken by INAPORC is financed by means of resources collected from undertakings in the sector;
- the financing arrangements and the percentage/quantity of the contributions is established within INAPORC without the State intervening in any way;
- the contributions have to be used for financing the measure, there being no possibility for the State to intervene.

Action brought on 9 September 2011 — France v Commission

(Case T-479/11)

(2011/C 340/54)

Language of the case: French

Parties

Applicant: French Republic (represented by: E. Belliard, G. de Bergues, B. Beaupère-Manokha and J. Gstalter, acting as Agents)

Defendant: European Commission

Form of order sought

- Annul the contested decision in its entirety;
- Order the Commission to pay the costs.

Pleas in law and main arguments

By its application, the applicant seeks annulment of Commission Decision C(2011) 4483 final of 29 June 2011 relating to State aid No NN C 35/2008 granted by France to the industrial and commercial public body, the Institut Français du Pétrole (French Petroleum Institute; 'IFP').

In support of the action, the applicant puts forward three pleas in law:

1. First plea, alleging an error of law in that the Commission did not establish to the requisite legal standard the existence of State aid. The applicant argues that, when concluding that there was State aid, the Commission did not comply with the rules governing proof in relation to State aid, as regards either the burden of proof or the standard of proof.
2. Second plea, divided into four parts, alleging errors of fact and law in so far as the Commission held there to be an implicit unlimited State guarantee in favour of the IFP. The applicant submits that:
 - an examination of French law does not show there to be a principle that the debts of the IFP are guaranteed by the State;
 - the fact that ordinary law procedures regarding receivership and insolvency are not applicable to the IFP does not mean that the creditors of such a body are in a more favourable situation than the creditors of an undertaking subject to commercial law;
 - the mechanisms for putting the State's liability in issue cannot be likened to the mechanism of an unlimited guarantee;
 - the fact that certain debts connected with the public-service obligations of the IFP may be upheld is not related to the body's status.
3. Third plea, divided into two parts, alleging an error in the application of the concept of 'advantage' for the purposes of Article 107(1) TFEU, inasmuch as:
 - the Commission incorrectly concluded that the existence of a guarantee — were it to be established — would create an advantage in favour of the IFP;
 - in the alternative, the Commission misapplied the concept of advantage when it held that the advantage from which it claimed the IFP benefited on account of the guarantee resulting from its status was transferred to its private-law subsidiaries Axens and Prosernat.