

4. Fourth plea in law, alleging breach of Articles 107 and 106(2) TFEU and infringement of the principle of non-retroactivity, by reason of the complete failure to carry forward bpost's undercompensation accumulated over the years 1992-2005 to offset the amounts of bpost's alleged overcompensation over the period 2006-2010.

Action brought on 20 September 2012 — Post Invest Europe v Commission

(Case T-413/12)

(2012/C 343/35)

Language of the case: English

Parties

Applicant: Post Invest Europe Sàrl (Luxembourg, Luxembourg) (represented by: B. van de Walle de Ghelcke and T. Franchoo, lawyers)

Defendant: European Commission

Form of order sought

- Annul Articles 2, 5, 6 and 7 of the Commission Decision of 25 January 2012 on the measure SA.14588 (C 20/2009) implemented by Belgium in favour of De Post-La Poste (now bpost), which was published in the Official Journal of the EU on 29 June 2012 (OJ 2012 L 170, p. 1);
- Order the defendant to pay the costs of the proceedings.

Pleas in law and main arguments

In support of the action, the applicant relies on four pleas in law.

1. First plea in law, alleging that the Commission's finding that the retail network was not a distinct Service of General Economic Interest ('SGEI') entitled to compensation breaches Articles 106(2), 107(1) and 107(3) TFEU, constitutes a manifest error of assessment and violates the principle of equal treatment.
2. Second plea in law, alleging that the Commission's failure to take into account part of the Universal Service Obligation ('USO') — induced retail network costs when calculating the amount of profits in the USO reserved area, which are above the level of a reasonable profit, breaches Articles 106(2), 107(1) and 107(3) TFEU and constitutes a manifest error of assessment.
3. Third plea in law, alleging that the Commission's finding that net costs of non-mail SGEI's must be offset with the profits from the USO reserved area, inasmuch as they exceed a reasonable profit, breaches Articles 107 and 106(2) TFEU and infringes the principles of proportionality and equal treatment.
4. Fourth plea in law, alleging that breach of Articles 107 and 106(2) TFEU and infringement of the principle of non-retroactivity, by reason of the complete failure to carry forward bpost's undercompensation accumulated over the years 1992-2005 to offset the amounts of bpost's alleged overcompensation over the period 2006-2010.