

## V

(Announcements)

## COURT PROCEEDINGS

## COURT OF JUSTICE

**Judgment of the Court (First Chamber) of 24 January 2013  
— European Commission v Kingdom of Spain**(Case C-529/09) <sup>(1)</sup>

*(Failure of a Member State to fulfil obligations — State aid incompatible with the common market — Obligation of recovery — Failure to comply with a Commission Decision — Objection of inadmissibility — Res judicata by means of a previous judgment of the Court)*

(2013/C 71/02)

Language of the case: Spanish

**Parties**

*Applicant:* European Commission (represented by: L. Flynn and C. Urraca Caviedes, acting as Agents)

*Defendant:* Kingdom of Spain (represented by: N. Díaz Abad, acting as Agent)

**Re:**

Failure of a Member State to fulfil obligations — Infringement of Article 288 TFEU and of Articles 2 and 3 of Commission Decision 1999/509/EC of 14 October 1998 concerning aid granted by Spain to companies in the Magefesa group and their successors (OJ 1999 L 198, p. 15) — Aid granted to Industrias Domésticas, S.A. (Indosa)

**Operative part of the judgment**

*The Court:*

1. Declares that, by failing to adopt, within the prescribed period, the measures necessary to comply with Commission Decision 1999/509/EC of 14 October 1998 concerning aid granted by Spain to companies in the Magefesa group and their successors, as regards the undertaking Industrias Domésticas SA, the Kingdom of Spain has failed to fulfil its obligations under the fourth paragraph of Article 288 TFEU and under Articles 2 and 3 of that decision.
2. Orders the Kingdom of Spain to pay the costs.

<sup>(1)</sup> OJ C 51, 27.2.2010.

**Judgment of the Court (Second Chamber) of 24 January 2013 — Frucona Košice a.s. v European Commission, St. Nicolaus — trade a.s.**(Case C-73/11 P) <sup>(1)</sup>

*(Appeal — State aid — Cancellation of 65 % of a tax debt in a collective bankruptcy procedure — Decision declaring the aid to be incompatible with the internal market and ordering its recovery — Private creditor test — Limits of judicial review — Substitution by the General Court of its own grounds for those set out in the contested decision — Manifest error of assessment — Distortion of evidence)*

(2013/C 71/03)

Language of the case: English

**Parties**

*Appellant:* Frucona Košice a.s. (represented by: P. Lasok QC, J. Holmes and B. Hartnett, Barristers, and by O. Geiss, Rechtsanwalt)

*Other parties to the proceedings:* European Commission (represented by: K. Walkerová, L. Armati and B. Martenczuk, Agents), St. Nicolaus — trade a.s. (represented by: N. Smaho, lawyer)

**Re:**

Appeal brought against the judgment of the General Court (Second Chamber) of 7 December 2010 in Case T-11/07 *Frucona Kosice a.s v European Commission* in which the General Court dismissed an action for annulment of the Commission Decision C(2006) 2087 final, of 7 June 2006, concerning aid granted by Slovakia for Frucona Košice in the form of a cancellation of a tax debt by the competent tax office in a collective bankruptcy procedure (State Aid No C 25/2005, ex NN/2005), in so far as that decision declares that measure incompatible with the common market and orders Slovakia to recover the aid in its entirety

**Operative part of the judgment**

*The Court:*

1. Sets aside the judgment of the General Court of the European Union of 7 December 2010 in Case T-11/07 *Frucona Košice v Commission*;