

### Pleas in law and main arguments

By its application, the applicant seeks the annulment of Commission Decision C(2013) 1926 final of 2 May 2013, by which the Commission, first of all, classified as State aid the financial compensation paid to the Société nationale maritime Corse Méditerranée (SNCM) and to the Compagnie Méridionale de Navigation (CNM) in respect of maritime transport services provided between Marseille and Corsica for the years 2007-2013 in the context of a public service agreement. Next, the Commission declared to be compatible with the internal market the compensation paid to the SNCM and to CNM for transport services provided throughout the whole year ('the basic service'), but declared to be incompatible with the internal market the compensation paid with respect to services provided during the peak periods, namely the Christmas period, February, spring-autumn and/or summer ('the additional service'). Finally, the Commission ordered the recovery of State aid declared to be incompatible with the internal market [State aid case SA.22843 2012/C (ex 2012/NN)].

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

1. First plea in law, alleging errors in law and of fact and manifest errors of assessment on the ground that the Commission incorrectly held that the 'additional' service was not a service of general economic interest. The applicant claims that the Commission thus:
  - erred in law by restricting the wide discretion afforded by the Treaty on the Functioning of the European Union to the States in defining their public services;
  - applied an incorrect test and which is not applicable in the case of a 'genuine need' for a public service;
  - erred in law, committed an error of fact and a manifest error of assessment by analysing separately the 'basic' service and the 'additional' service;
  - committed a manifest error of assessment of the deficiency of the private initiative concerning the 'additional' service.
2. Second plea in law, alleging a manifest error of assessment in that the Commission wrongly held that the allocation of the public service agreement did not meet the fourth criterion set by the judgment of the Court of Justice in Case C-280/00 *Altmark Trans et Regierungspräsidium Magdeburg* [2003] ECR I-7747), even though it was the result of an open and transparent call for tenders.
3. Third plea in law, alleging, in the alternative and on the assumption that the compensation of the 'additional' service constitutes State aid (*quod non*), infringement of Articles 106(2) TFEU and 107 TFEU, the principles of proportionality and the prohibition on unjust enrichment, and a manifest error of assessment in calculating the amount of State aid to be recovered, in so far as the calculation of the State aid to be recovered did not take account of either the genuine additional costs incurred by the SNCM with respect to the 'additional' service, or the under-compensation relating to the 'basic' service, and is based, in any event, on an incorrect assessment of the part of the compensation granted to the 'basic' service and of the part granted to the 'additional' service.
4. Fourth plea in law, alleging infringement of the principle of the protection of legitimate expectations, in so far as the position of the Commission was at odds with its own practice and applied the SIEG communication<sup>(1)</sup> which had not been adopted at the time the public service agreement was signed. The applicant moreover claims that the length of the procedure was such as to establish a legitimate expectation on its part precluding the Commission from ordering the national authorities to recover the State aid.
5. Fifth plea in law, alleging infringement of the principle of equal treatment by establishing an unjustified difference in treatment between the SNCM and other maritime companies.

<sup>(1)</sup> Communication from the Commission on the application of the European Union State aid rules to compensation granted for the provision of services of general economic interest (OJ 2012 C 8, p. 4).

### Appeal brought on 28 August 2013 by CC against the judgment of the Civil Service Tribunal of 11 July 2013 in Case F-9/12 CC v Parliament

(Case T-457/13 P)

(2013/C 325/70)

Language of the case: French

#### Parties

*Appellant*: CC (Bridel, Luxembourg) (represented by: G. Maximini, lawyer)

*Other party to the proceedings*: European Parliament

#### Form of order sought by the appellant

The appellant claims that the Court should:

- set aside the judgment of the Civil Service Tribunal of 11 July 2013 in Case F-9/12 CC v *European Parliament*;

- consequently, uphold the appellant's claim for compensation for the damage sustained on account of the conduct adversely affecting that party;
- give judgment in accordance with the form of order sought by the appellant at first instance;
- order the defendant to pay the costs at first instance and on appeal.

### Pleas in law and main arguments

The appellant relies on eight grounds of appeal.

1. First ground of appeal, alleging that the Civil Service Tribunal erred in failing to order necessary measures of inquiry and therefore made a manifest error of assessment regarding the loss of opportunity for the appellant to be recruited to the Parliament as from June 2005.
2. Second ground of appeal, alleging an error in law and a manifest error of assessment and, in the alternative, distortion of the facts when the Civil Service Tribunal concluded that the Council had been informed of the existence of the list of suitable candidates on which the appellant's name appeared.
3. Third ground of appeal, alleging an error in law, a manifest error of assessment, distortion of the facts, a failure to state the reasons and a failure to respond to a plea, inasmuch as the Civil Service Tribunal failed to respond to the appellant's pleas concerning (i) the Parliament's obstruction of the appellant's recruitment by the institutions and bodies of the European Union, (ii) the absence of information concerning the existence of the list of suitable candidates and (iii) the fact that EPSO received permission to enter the appellant in its database and pass on that information.
4. Fourth ground of appeal, alleging an error in law and distortion of the facts, inasmuch as the Civil Service Tribunal (i) erred in finding that the Parliament was not under a legal obligation to distribute the list of suitable candidates to all the institutions and bodies of the European Union, (ii) failed to draw the appropriate conclusions from the breach of the principle of equal treatment, sound administration and legal certainty and (iii) failed to examine documents.
5. Fifth ground of appeal, alleging distortion of the facts and a manifest error of assessment concerning the information on the extension of the list of suitable candidates, inasmuch as the Civil Service Tribunal concluded that the Council and the other institutions and bodies of the European Union were aware of the extension of the list of suitable candidates between June and August 2007.
6. Sixth ground of appeal, alleging an error in law, a manifest error of assessment, distortion of the facts and a failure to

examine them, inasmuch as the Civil Service Tribunal concluded that the duration of the validity of the list of suitable candidates extended in respect of the other successful candidates did not imply that the appellant had been treated unequally.

7. Seventh ground of appeal, alleging an error in law and a manifest error of assessment, inasmuch as the Civil Service Tribunal failed to draw the necessary conclusions as a result of the Parliament's destruction of the documents concerning the appellant's situation.
8. Eighth ground of appeal, alleging an error of law, a manifest error of assessment and, in the alternative, distortion of the facts, failure to adopt measures of inquiry and failure to state the reasons, inasmuch as, when analysing whether there was a loss of opportunity to be recruited and evaluating the damage sustained, the Civil Service Tribunal did not take into account the appellant's actual situation and the wrongful conduct of the Parliament.

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### Action brought on 28 August 2013 — Ranbaxy Laboratories and Ranbaxy (UK) v Commission

(Case T-460/13)

(2013/C 325/71)

*Language of the case: English*

#### Parties

*Applicants:* Ranbaxy Laboratories Ltd (Haryana, Inde); and Ranbaxy (UK) Ltd (London, United Kingdom) (represented by: R. Vidal, A. Penny, Solicitors, and B. Kennelly, Barrister)

*Defendant:* European Commission

#### Form of order sought

The applicants claim that the Court should:

- Annul Article 1(4) of the Commission Decision in case COMP/39.226 — Lundbeck (citalopram) of 19 June 2013, relating to a proceeding under Article 101 TFEU and Article 53 of the EEA Agreement, insofar as it concerns the applicants;
- Annul Article 2(4) of the Commission Decision in case COMP/39.226 — Lundbeck (citalopram) of 19 June 2013, insofar as it imposes fines on the applicants or, in the alternative, reduce the amount of the fine; and
- Order the defendant to pay the applicants' costs of these proceedings.