

### Pleas in law and main arguments

In support of the action the applicant relies on three pleas in law:

1. The first plea in law is based on the infringement by the Commission of Article 41 of the Charter of Fundamental Rights. The applicant maintains that due to the failure first to hear the applicant it is evident that the adoption of the contested decision was vitiated by an infringement of an essential procedural requirement for its adoption.
2. The second plea in law is based on the infringement by the Commission of Article 108(2) TFEU and Article 14 of Regulation (EC) No 659/99. <sup>(1)</sup> The applicant maintains that the Commission committed a manifest error of assessment in considering that there was economic continuity between the applicant and the purchaser of its assets in the context of the 'privatisation programme'.
3. The third plea in law is based on the infringement of Article 296(2) TFEU. The applicant maintains that the statement of reasons in the contested decision is insufficient as regards the lack of economic continuity, and particularly as regards (a) the scope of the assets which were sold, (b) the non-transfer of employment contracts and (c) the economic logic of the sale.

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<sup>(1)</sup> Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty (OJ 1999 L 83, p. 1).

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### Action brought on 6 June 2014 — Larko v Commission

(Case T-423/14)

(2014/C 292/59)

Language of the case: Greek

### Parties

*Applicant:* Larko Geniki Metalleftiki kai Metallourgiki AE (Athens, Greece) (represented by: I. Drullerakes, E. Triandafyllou, G. Psaroudakis, E. Randos, N. Korogiannakis, lawyers)

*Defendant:* European Commission

### Form of order sought

The applicant claims that the General Court should:

- uphold this action in its entirety;
- declare null and void the Commission Decision of 27/03/2014 [SG-Greffe (2014) D/4621/28/03/2014] on State aid implemented by the Hellenic Republic in favour of the applicant (No SA.34572 (2013/C) (ex 2013/NN));
- order that whatever amount may have been 'recovered' directly or indirectly from the applicant in execution of the contested decision be reimbursed with interest and,
- order the defendant to pay the applicant's costs.

### Pleas in law and main arguments

In support of the action the applicant relies on the following pleas in law:

1. The first plea in law is based on the infringement by the defendant of Articles 107(1) and 296 TFEU since: (a) the aid measures 2, 3, 4 and 6 cannot be categorised as State aid under Article 107(1) TFEU and (b) even if some of the aid measures 2, 3, 4 and 6 could be categorised as constituting State aid under Article 107(1) TFEU, that aid is compatible with the internal market under Article 107(3) TFEU.

2. The second plea in law is based on the erroneous application, for which no reasons are stated, of the criteria in the Commission Notice on guarantees [OJ 2008 C 155, p. 10] and infringement of the principle of proportionality in respect of the characterisation of measures 2, 4 and 6 as State aid and in respect of the quantification of the aid element.
3. The third plea in law is based on an insufficient statement of reasons and infringement of the principle of good administration by reason of the failure to take into account, in the assessment of measures 3, 4 and 6, of the damage which was caused to the applicant by the exceptional occurrences of 2009, which meets the conditions for the application of Article 107(2)(b) TFEU.
4. The fourth plea in law is based on an insufficient statement of reasons and infringement of the principle of good administration by reason of the failure to take into account the circumstances of the Greek economic crisis and the consequent cessation of payment by the Greek State of benefits in favour of the applicant, as an exceptional occurrence within the meaning of Article 107(2)(b) TFEU.
5. The fifth plea in law in support of annulment is based on the errors in section 4.5 and in the operative part of the contested decision, as regards the amount to be recovered: infringement of Article 108(3) TFEU and Article 14 of Regulation No 659/1999, an insufficient statement of reasons, infringement of the principle of proportionality, breach of the right to property and the punitive character of the order for recovery.

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**Action brought on 17 June 2014 — Warimex v OHIM (STONE)**

(Case T-454/14)

(2014/C 292/60)

*Language of the case: German*

**Parties**

*Applicant:* Warimex Waren-Import-Export Handels GmbH (Neuried, Germany) (represented by E. Keller and J. Voogd, lawyers)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs)

**Form of order sought**

The applicant claims that the Court should:

- Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 27 March 2014 in Case R 1599/2013-1;
- Order the defendant to pay the costs.

**Pleas in law and main arguments**

*Community trade mark concerned:* the figurative mark including the word element 'STONE' for goods and services in Classes 1, 3, 7, 8, 9, 11, 12, 16, 21, 24 and 25 — Community trade mark application No 11 464 005

*Decision of the Examiner:* the application was rejected

*Decision of the Board of Appeal:* the appeal was dismissed

*Pleas in law:*

- Infringement of Articles 75 and 76 of Regulation No 207/2009;
  - Infringement of Article 7(1)(c) of Regulation No 207/2009;
  - Infringement of Article 7(1)(b) of Regulation No 207/2009
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