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

1. First plea in law concerning the decision Ares (2014) 1915757, alleging infringement of Regulation No 1367/2006 ([2]) and Directive No 2010/75:

   — as the decision on the transitional national plan is a measure of individual scope and therefore an administrative act under Regulation No 1367/2006. According to the applicant the Commission should thus have declared the request for internal review admissible;

   — as the Commission should have interpreted Article 10 of Regulation No 1367/2006 in accordance with the Aarhus Convention and found Article 2(1)(g) of Regulation No 1367/2006 illegal;

   — as the Commission's argumentation is based on an incorrect interpretation of the relevant provisions of Directive 2010/75/EU.

2. Second plea in law concerning the Decision C(2014) 804 final, alleging infringement of Article 17 TEU, Directive 2010/75/EU, Commission Implementing Decision 2012/115/EU ([3]), the Aarhus Convention, Directive 2001/42/EC ([4]) and Directive 2008/50/EC ([5]).

([1]) Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (OJ 2010 L 334, p. 17).
([2]) Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies (OJ 2006 L 264, p. 13).
([3]) Commission Implementing Decision 2012/115/EU of 10 February 2012 laying down rules concerning the transitional national plans referred to in Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions (notified under document C(2012) 612) (OJ 2012 L 52, p. 12).
([4]) Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment (OJ 2001 L 197, p. 30).
([5]) Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe (OJ 2008 L 152, p. 1).

Action brought on 28 July 2014 — Larymnis Larko v Commission

(Case T-575/14)

(2014/C 395/65)

Language of the case: Greek

Parties

Applicant: Ellininiki Metalleftiki kai Metallourgiki Larymnis Larko SA (Kallithea Attikis, Greece) (represented by: V. Koulouris, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— annul and set aside the Commission Decision of 27 March 2014 addressed to the Hellenic Republic [SG–Greffe (2014) D/4621/28/03/2014] in relation to the State aid implemented by the Hellenic Republic for the limited company named 'General Mining and Metallurgical Company NEA LARKO' [NEW LARKO], Case No SA.34572 (2013/C) (ex 2013NN), in so far as concerns the measures 2, 3, 4 and 6, which measures according to the contested decision constitute State aid incompatible with the internal market;

— order the defendant to pay the applicant's costs.

Pleas in law and main arguments

In support of the action, the applicant, in the first place, maintains that it has a clear legal interest to seek the annulment of the contested decision, since the decision affects the applicant directly and distinguishes it individually just as in the case of the person addressed, and, in the second place, puts forward three pleas in law in support of annulment.

1. The first plea in law is based on the infringement of the obligation to state reasons, under Article 296 TFEU.

— The applicant maintains that: (a) as is apparent from the contested decision itself, the Commission arrived at its conclusions in relation to all the examined actions/measures of the Greek State without being in possession of adequate information on them. More specifically, as regards the measures 2, 4 and 6 (State guarantees corresponding to the years 2008, 2010 and 2011), the contested decision plainly states that the Commission did not have information that those guarantees had been triggered. In addition, as regards measure 3 (the 2009 share capital increase), the Commission accepts that it does not know when a substantial part of the share capital increase took place; (b) the contested decision also lacks any statement of reasons and therefore fails to define the relevant product market in order to determine whether there was created an advantage for NEW LARKO and a competitive disadvantage for others, and (c) in reality, in relation to measures 4 and 6, it was only the Greek State which acquired an advantage in this case, since instead of making a payment to NEW LARKO for the purpose of refund of taxes (income tax and VAT) the Greek State granted to it guarantees, at a premium.

2. The second plea in law is based on the erroneous assessment of the facts (error of fact), together with misinterpretation and misapplication of Article 296(2) and Article 107(1) TFEU.

— The applicant maintains that: (a) the Greek State, both in the cases of the abovementioned guarantees (measures 2, 4 and 6) and in the case of measure 3 (the 2009 share capital increase in NEW LARKO with the payment of cash), acted 'as a reasonable market investor'. Any reasonable, rational investor would provide a guarantee to a company in which it had its own interests (as applies to NEW LARKO in this case in relation to the Greek State) for amounts which are covered by its own corresponding obligations to its own undertaking (the obligation of the Greek State to repay income tax and VAT to NEW LARKO). *A fortiori* in this case where the Greek State expected to profit through the sale of NEW LARKO. It must be emphasised that the guarantees concerned were not triggered and (b) the contested decision did not examine the size of the undertaking under consideration and whether by reason of its size and its general position in the product's overall market sector it would be able to affect the internal market for the 'product'. It must be noted that the size of NEW LARKO is such that the State aid under consideration would not be able to have any influence on the internal market.

3. The third plea in law is based on the infringement of the principle of proportionality.

— The applicant maintains that even if it were accepted that the abovementioned guarantees constitute prohibited State aid, the contested decision should be annulled, because it infringes the principle of proportionality in respect of the determination of the amount of the guarantee to be recovered. More specifically, as regards the determination of the amount of the guarantees to be recovered (such as the measures 2, 4 and 6), the Commission failed to take into account that the guarantees concerned were not triggered and, consequently, it cannot be admitted under law or under good business practice that NEW LARKO (or the third party successor undertaking) should be called upon to pay back exactly the same amount in respect of guarantees which were not triggered, since that amount had been covered by the guarantee from the Greek State, which very largely provided the guarantees concerned while covered by its own obligations to the borrower NEW LARKO.

Action brought on 28 July 2014 — Larymnis Larko v Commission

(Case T-576/14)

(2014/C 395/66)

Language of the case: Greek

Parties

Applicant: Ellininiki Metalleftiki kai Metallourgiki Larymnis Larko SA (Kallithea Attikis, Greece) (represented by: V. Koulouris, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— annul and set aside the Commission Decision of 27 March 2014 [SG–Greffe (2014) D/4628/28/03/2014] in connection with the sale of certain assets of the limited company named 'General Mining and Metallurgical Company Larko' [NEW LARKO], Case number SA.37954 (2013/N) (OJ 23/05/2014, C 156) and

— order the defendant to pay the applicant's costs.