**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 it directly and distinguishes the applicant 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 Article 108(2) TFEU, and Article 14 of Regulation No 659/1999. ([1]) The applicant maintains that the Commission decided by the contested act that the sale notified by the Hellenic Republic of assets of NEW LARKO described in the decision will not lead to economic continuity between it and the owner(s) of the assets which will be sold. First, the Commission erroneously considers that the assets being sold represent only a part of the activities of NEW LARKO, whereas the truth is that those assets represent the main part of its activities and that those which remain in the possession of the transferor are economically worthless for the most part and that it is impossible for any productive use to be made of them in isolation. Thus, the plant at Larymna (for sale in connection with the proposed privatisation) is its principal asset, mainly because it is there that all the ore extracted at the sites of NEW LARKO in the whole of Greece is brought and there alone that smelting takes place. Second, the contested decision also erred in accepting the information that the assets which will be auctioned will not belong to NEW LARKO but to the Greek State, whereas the truth is that the ore-smelting plant at Larymna, both the general ore-smelting installations and the smelter support installations, will never fall into the ownership of the Greek State but will remain even after the possible expiry of the contract for the lease of mining rights in the ownership of NEW LARKO, because those rights are entirely owned by it. As a direct consequence of the above consideration the business of NEW LARKO will be continued by the new entity/purchaser, so that it is inadmissible that the latter should be relieved of the obligation to pay to the applicant the amounts which the transferring NEW LARKO owes to it.

2. The second plea in law is based on the infringement of Article 296(2) TFEU. The applicant maintains that the reasons stated in the contested decision are inadequate, since there is no examination whatsoever of whether the transfer of assets at issue on the basis of the proposed privatisation which was reviewed by the Commission distorts or threatens to distort competition. The Commission failed to examine the product market, and moreover failed to identify that market and the sector of production. The Commission was satisfied with statements from the Greek State, which it in no way investigated as it ought to have done. It did not make even the most rudimentary enquiry to obtain the opinion of NEW LARKO, although it is directly affected by the Commission's decision, thereby infringing NEW LARKO's fundamental rights, such as the right to equal treatment vis-à-vis the Greek State, the principle of legitimate expectations as to the conduct of EU institutions, and its right to be heard, before issuing a decision which affects it.

3. The second plea in law is based on the argument that the contested decision contains contradictory statements the result of which is that the decision is unjustified and should be annulled. Specifically, the applicant maintains that, while the Commission in the contested decision accepts that all the assets to be sold should be viewed as the whole, since the Commission connects the termination of the lease of mining rights as part of the proposed privatisation with the parallel auctioning and application of the ['shoot-out'] clause, the Commission then decides that the important value is book value, in order to arrive at the conclusion that, since the ratio of the sold assets to the remaining assets, erroneously, is in the proportion of 1 to 3 in terms of book value, for that reason there is no continuity of economic activity. Further, the Commission gives no reasons all in the decision for its taking the view that the employment contracts of the staff of NEW LARKO are not transferred to the acquiring entity, fundamentally disregarding the 'Union acquis' on that subject.

([1]) Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty.

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**Action brought on 22 August 2014 — DEI v Commission**

**(Case T-639/14)**

(2014/C 395/67)

*Language of the case: Greek*

**Parties**

*Applicant:* Dimosia Epikhirisi Ilektrismou A.E. (DEI) (Athens, Greece) (represented by: E. Bourtzalas, D. Waelbroeck, A. Ikonomou, K Sinodinos and E. Salaka, lawyers)

*Defendant:* European Commission

**Form of order sought**

The applicant claims that the General Court should:

— annul the Commission decisions which are contained in the defendant's letter of 12 June 2014 to the applicant and relate respectively to the two complaints which the applicant submitted in turn to the defendant challenging the unlawful State aid which resulted, initially, from the application of decision No 346/2012 of the Greek regulatory authority for energy and, subsequently, from the award of the special arbitration tribunal in the context of the permanent arbitration of the abovementioned regulatory authority for energy — both of which obliged the applicant to supply electricity to the company Alouminion A.E. at below cost price — and, specifically, the Commission's express decision not to investigate further the second of the abovementioned complaints from the applicant, on the ground that no infringement of the State aid rules was established, and its implicit decision not to investigate further the first of the abovementioned complaints;

— order the defendant to pay its costs.

**Pleas in law and main arguments**

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

1. The first plea alleges infringement of an essential procedural requirement, as the defendant did not comply with the procedural requirements that are laid down for the adoption of the contested measure.

2. The second plea alleges a manifest error of assessment as regards the law and the facts in interpreting and applying Articles 107 TFEU and 108 TFEU, relating to the defendant's conclusion that the measure complained of cannot be imputed to the State.

3. The third plea alleges a manifest error of assessment as regards the law and the facts in interpreting and applying Articles 107 TFEU and 108 TFEU, relating to the defendant's conclusion that the measure complained of does not result in the grant of an unfair advantage to the company Alouminion A.E.

4. The fourth plea alleges infringement of the obligation to state sufficient reasons and to examine all the relevant matters of fact and law and infringement of the principle of sound administration, in particular in the light of the defendant's failure to set out sufficiently all the reasons for which the matters of fact and law that the applicant placed before it did not establish the existence of the alleged unlawful State aid and to state full reasons for the substantial change to the position which the defendant itself had adopted in previous cases, as regards fulfilment of the criterion of imputability to the State and the calculation of the price for the supply of electricity to a consumer such as the company Alouminion A. E., and in the light of the defendant's failure to carry out any substantive investigation relating to the two abovementioned complaints from the applicant.

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**Action brought on 29 August 2014 — NTS Energie- und Transportsysteme v OHIM — Schütz (X-Windwerk)**

**(Case T-649/14)**

(2014/C 395/68)

*Language in which the application was lodged: German*

**Parties**

*Applicant:* NTS Energie- und Transportsysteme GmbH (Berlin, Germany) (represented by: S. Mach, lawyer)

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

*Other party to the proceedings before the Board of Appeal:* Schütz GmbH & Co. KGaA (Selters, Germany)

**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 23 May 2014 in Case R 978/2013-1