



Action brought on 22 April 2026 – European Commission v Portuguese Republic

(Case C-410/26)

(C/2026/3165)

Language of the case: Portuguese

Parties

Applicant: European Commission (represented by: I. Barcew, A. Steiblytė and P. Caro de Sousa, acting as Agents)

Defendants: Portuguese Republic

Form of order sought

The Commission claims that the Court should:

- declare that, by failing to adopt within the prescribed time limits all the measures necessary to comply with Commission Decision (EU) 2022/1414 of 4 December 2020 on State aid scheme SA.21259 (2018/C) (ex 2018/NN) implemented by Portugal for Zona Franca da Madeira (ZFM) – Regime III (OJ 2022 L 217, p. 49), the Portuguese Republic failed to fulfil its obligations under the fourth paragraph of Article 288 TFEU and under Article 4(1) to (3), Article 5 and Article 6(1) of that decision;
- order the Portuguese Republic to pay the costs.

Pleas in law and main arguments

The case concerns an action brought under Article 108(2) and the fourth paragraph of Article 288 of the Treaty on the Functioning of the European Union.

The Commission submits that the Portuguese Republic has failed to adopt within the prescribed time limits all the measures necessary to implement Commission Decision (EU) 2022/1414 of 4 December 2020 on State aid scheme SA.21259 (2018/C) (ex 2018/NN) implemented by Portugal for Zona Franca da Madeira (ZFM) – Regime III (OJ 2022 L 217, p. 49) ('the Decision').

In the Decision, the Commission concluded that the ZFM aid scheme, in so far as it was implemented in breach of the Commission decisions that had approved it, constituted unlawful aid incompatible with the internal market. The Commission therefore ordered the recovery of the aid from the beneficiaries. The Portuguese Republic has not implemented the Decision within the time limits laid down therein, nor has it done so to date. The circumstances relied on by the Portuguese authorities to explain the delay in implementing the recovery obligation set out in the Decision (such as compliance with the requirements of national procedural law, the insolvency of some of the beneficiaries, the need to assess cases of economic continuity, or suspensions of recovery pending a preliminary ruling on the interpretation of the Decision) do not amount to absolute impossibility and therefore cannot justify the failure to implement the order to recover aid contained in the Decision. Furthermore, the Portuguese Republic also failed to provide the necessary information within the time limit laid down in Article 6 of the Decision. Consequently, the Portuguese Republic has failed to fulfil its obligations under the fourth paragraph of Article 288 TFEU and under Articles 4(1) to (3), Article 5 and Article 6(1) of the Decision.

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