

**Judgment of the General Court of 12 May 2011 — Région Nord-Pas-de-Calais and Communauté d'agglomération du Douaisis v Commission**

(Joined Cases T-267/08 and T-279/08) <sup>(1)</sup>

*(State aid — Construction of railway equipment — Repayable advances — Decision declaring the aid incompatible with the common market and ordering its recovery — Alteration of heads of claim — Rights of defence — Obligation to state reasons — State resources — Whether State held responsible — Criterion of private investor — Undertaking in difficulties)*

(2011/C 186/34)

Language of the case: French

**Parties**

Applicants: Région Nord-Pas-de-Calais (represented by M. Cliquennois and F. Cavedon, lawyers) (Case T-267/08) and Communauté d'agglomération du Douaisis (represented by M.Y. Benjamin and D. Rombi, lawyers) (Case T-279/08)

Defendant: European Commission (represented by: C. Giolito and B. Stromsky, Agents)

**Re:**

Originally, application for annulment of Decision C(2008) 1089 final of the Commission of 2 April 2008 concerning State aid C 38/2007 (ex NN 45/2007) implemented by France in favour of Arbel Fauvet Rail SA, and then application for annulment of Decision C(2010) 4112 final of the Commission of 23 June 2010 concerning State aid C 38/2007 implemented by France in favour of Arbel Fauvet Rail.

**Operative part of the judgment**

The Court:

1. Declares that there is no longer any need to adjudicate on the applications for annulment of Decision C(2008) 1089 final of the Commission of 2 April 2008 concerning State aid C 38/2007 (ex NN 45/2007) implemented by France in favour of Arbel Fauvet Rail SA;
2. Dismisses the actions;
3. Orders the European Commission to pay the costs, save those incurred by Région Nord-Pas-de-Calais and the Communauté d'agglomération du Douaisis after they were sent Decision C(2010) 4112 final of the Commission of 23 June 2010 concerning State aid C 38/2007 (ex NN 45/2007) implemented by France in favour of Arbel Fauvet Rail and withdrawing Decision C(2008) 1089 final.

<sup>(1)</sup> OJ C 247, of 27.9.2008.

**Judgment of the General Court of 17 May 2011 — Elf Aquitaine v Commission**

(Case T-299/08) <sup>(1)</sup>

*(Competition — Agreements, decisions and concerted practices — Market in sodium chlorate — Decision finding an infringement of Article 81 EC and Article 53 EEA — Imputability of the infringement — Rights of the defence — Obligation to state reasons — Principle that penalties must fit the offence — Principle that penalties must have a proper legal basis — Presumption of innocence — Principle of sound administration — Principle of legal certainty — Misuse of powers — Fines — Aggravating circumstance — Deterrence — Mitigating circumstance — Cooperation during the administrative procedure — Significant added value)*

(2011/C 186/35)

Language of the case: French

**Parties**

Applicant: Elf Aquitaine SA (Courbevoie, France) (represented by: É. Morgan de Rivery and S. Thibault-Liger, lawyers)

Defendant: European Commission (represented by: X. Lewis, É. Gippini Fournier and R. Sauer, Agents)

**Re:**

Principally, action for annulment of Commission Decision C(2008) 2626 final of 11 June 2008 relating to a proceeding under Article 81(1) EC and Article 53(1) of the Agreement on the European Economic Area (EEA) (Case COMP/38.695 — Sodium Chlorate), in so far as that decision relates to Elf Aquitaine and, in the alternative, action for annulment or reduction of the amounts of the fines imposed on that company in that decision.

**Operative part of the judgment**

The Court:

1. Dismisses the action;
2. Orders Elf Aquitaine SA to pay the costs.

<sup>(1)</sup> OJ C 272, 25.10.2008.