JUDGMENT OF THE GENERAL COURT (eighth chamber)

18 March 2010 *

In Case T-94/08,

Centre de coordination Carrefour SNC, established in Brussels (Belgium), represented by X. Clarebout and K. Platteau, lawyers,

applicant,

v

European Commission, represented by J.-P. Keppenne, acting as Agent,

defendant,

ACTION for the annulment of Commission Decision 2008/283/EC of 13 November 2007 amending Decision 2003/757/EC on the aid scheme implemented by Belgium for coordination centres established in Belgium (OJ 2008 L 90, p. 7), in so far as it does not provide an adequate transitional period,

* Language of the case: French.

THE GENERAL COURT (Eighth Chamber),

composed of E. Martins Ribeiro, President, S. Papasavvas (Rapporteur) and A. Dittrich, Judges,

Registrar: B. Pastor, Deputy Registrar,

having regard to the written procedure and further to the hearing on 2 July 2009,

gives the following

Judgment

Background to the dispute

1 The Belgian tax scheme for coordination centres, which is an exception to the ordinary law, was established by Royal Decree No 187 of 30 December 1982 concerning the establishment of coordination centres (Arrêté royal no 187 relatif à la création de centres de coordination, Moniteur belge, 13 January 1983, p. 502), as supplemented and amended on several occasions.

2 To benefit from that scheme, a coordination centre must first be individually authorised by a royal decree. To obtain authorisation, the centre must form part of a multinational group with capital and reserves of at least BEF 1 000 million and an annual consolidated turnover of at least BEF 10 000 million. Only certain preparatory,

ancillary or centralisation measures are authorised, and undertakings in the financial sector are excluded from the scheme. Centres must employ at least the equivalent of 10 full-time employees in Belgium at the end of the first two years of their activity.

3 An authorisation granted to a centre is valid for 10 years and renewable for the same duration.

4 The tax scheme for coordination centres was examined by the Commission of the European Communities when it was introduced. In particular, in decisions communicated in the form of letters on 16 May 1984 and 9 March 1987, the Commission found essentially that such a scheme, based on a system of flat-rate assessment of the income of the coordination centres, did not contain an aid element.

5 After adopting, on 11 November 1998, a notice on the application of the State aid rules to measures relating to direct business taxation (OJ 1998 C 384, p. 3), the Commission undertook a general review of the tax legislation of the Member States from the point of view of the rules on State aid.

6 In that connection the Commission, on 12 February 1999, asked the Belgian authorities for certain information relating inter alia to the scheme for coordination centres. They replied in March 1999.

7 In July 2000 the Commission informed the Belgian authorities that the scheme appeared to constitute State aid. With a view to initiating the cooperation procedure in accordance with Article 17(2) of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article [88 EC] (OJ 1999 L 83, p. 1), the Commission requested the Belgian authorities to submit their comments within a period of one month.

8 On 11 July 2001 the Commission adopted four proposals for appropriate measures on the basis of Article 88(1) EC, concerning inter alia the scheme for coordination centres. It proposed that the Belgian authorities should accept a number of changes to the scheme, while providing as a transitional measure that centres authorised before the date of acceptance of those measures could continue to benefit from the previous scheme until 31 December 2005.

9 Since the Belgian authorities did not accept the appropriate measures proposed, the Commission initiated the formal investigation procedure by a decision notified by letter of 27 February 2002 (OJ 2002 C 147, p. 2), in accordance with Article 19(2) of Regulation No 659/1999. It invited the Kingdom of Belgium to submit comments and provide any information relevant to the assessment of the measure in question. It also invited that Member State and interested third parties to submit comments and provide any information relevant to determining whether the beneficiaries of the scheme at issue had a legitimate expectation that transitional measures would be laid down.

10 Following the formal investigation procedure, the Commission on 17 February 2003 adopted Decision 2003/757/EC on the aid scheme implemented by Belgium for coordination centres established in Belgium (OJ 2003 L 282, p. 25, 'the 2003 decision').

11 According to Articles 1 and 2 of the 2003 decision:

'*Article 1*

The tax scheme which currently operates in Belgium for the benefit of coordination centres approved under Royal Decree No 187 constitutes aid incompatible with the common market.

Article 2

Belgium is required to withdraw the aid referred to in Article 1 or to amend it in such a way as to make it compatible with the common market.

As of the date of notification of this Decision, the benefits of this scheme or sections thereof may no longer be granted to new beneficiaries or maintained by renewing existing agreements.

With regard to centres approved before 31 December 2000, the scheme may be maintained until the expiry date of the individual approval applying on the date of notification of this Decision and until 31 December 2010 at the latest. In accordance with the second paragraph, if approval is renewed prior to that date the benefits of the scheme dealt with in this Decision may no longer be granted, even temporarily.'

12 On 6 March 2003 the Kingdom of Belgium approached simultaneously the Commission and the Council, asking them for 'the necessary to be done in order for the coordination centres whose approval expires after 17 February 2003 to be extended until 31 December 2005'. That request was repeated on 20 March and 26 May 2003 on the basis of the third subparagraph of Article 88(2) EC.

13 On 25 and 28 April 2003 the Kingdom of Belgium and the association Forum 187, a grouping of coordination centres, brought actions for the suspension and annulment of all or part of the 2003 decision (Cases C-182/03 and T-140/03, later C-217/03; Cases C-182/03 R and T-140/03 R, later C-217/03 R).

14 By order of 26 June 2003 in Joined Cases C-182/03 R and C-217/03 R *Belgium and Forum 187* v *Commission* [2003] ECR I-6887 ('the Forum 187 order'), the President of the Court of Justice ordered the operation of the 2003 decision to be suspended in so far as it prohibited the Kingdom of Belgium from renewing the authorisations of coordination centres which were current at the date of notification of that decision.

15 As they were allowed to do by the Forum 187 order, the Belgian authorities renewed the authorisations of coordination centres which expired between 17 February 2003 and 31 December 2005. With the exception of four centres which were granted renewals for an indefinite period, the authorisations were all renewed for a period expiring on 31 December 2005.

16 By Council Decision 2003/531/EC of 16 July 2003 on the granting of aid by the Belgian Government to certain coordination centres established in Belgium (OJ 2003 L 184, p. 17), adopted on the basis of Article 88(2) EC, the 'aid which Belgium plan[ned] to grant in the period up to 31 December 2005 to undertakings authorised as at 31 December 2000 to act as coordination centres under Royal Decree No 187 … and whose authorisations expire between 17 February 2003 and 31 December 2005' was declared compatible with the common market. On 24 September 2003 the Commission brought an action for the annulment of that decision (Case C-399/03).

17 On 22 June 2006 the Court of Justice annulled the 2003 decision in part, in so far as it did not lay down transitional measures for the coordination centres whose applications for renewal of authorisation were pending on the date of notification of that decision, or whose authorisations expired at the same time as or shortly after that notification (Joined Cases C-182/03 and C-217/03 *Belgium and Forum 187* v *Commission* [2006] ECR I-5479, 'the Forum 187 judgment'). On the same date the Court of Justice also annulled Decision 2003/531, by its judgment in Case C-399/03 *Commission* v *Council* [2006] ECR I-5629.

18 By letter of 4 July 2006, the Commission requested the Belgian authorities to provide it with certain information within 20 working days, so that it could decide how to react to the Forum 187 judgment.

19 On 27 December 2006 the Kingdom of Belgium adopted a Law on miscellaneous provisions (Loi portant des dispositions diverses, *Moniteur belge*, 28 December 2006, p. 75266, 'the 2006 law') allowing the extension to 31 December 2010 of the authorisations of all coordination centres which applied for extensions, if necessary with retroactive effect. In addition to the centres whose authorisations had been renewed following the Forum 187 order between 17 February 2003 and 31 December 2005, the 2006 law provided that the possibility of extension would also be available to centres whose authorisations expired between 1 January 2006 and 31 December 2010, and to an unspecified number of centres whose authorisations would have expired on or before 31 December 2005 but which had not applied for renewal by that date. The law was not notified to the Commission under Article 88(3) EC, but its entry into force was made conditional on confirmation by the Commission that it had no objections.

20 Following a number of reminders and exchanges of correspondence with the Commission, the Belgian authorities on 16 January 2007 supplied the information which the Commission had asked for on 4 July 2006. They provided supplementary information by letters of 8 and 16 February 2007. Three meetings also took place, on 5 and 15 February and 5 March 2007, between the Commission and those authorities.

21 By letter of 21 March 2007, the Commission informed the Belgian authorities of its decision to extend the formal investigation procedure initiated on 27 February 2002 concerning the scheme for coordination centres. That decision and the invitation to interested parties to submit their comments on the reasonable transitional measures for which the Commission, in accordance with the Forum 187 judgment, should have made provision were published in the *Official Journal of the European Union* of 16 May 2007 (OJ 2007 C 110, p. 20).

22 On 13 November 2007 the Commission, following that formal investigation procedure, adopted Decision 2008/283/EC amending Decision 2003/757/EC on the aid scheme implemented by Belgium for coordination centres established in Belgium (OJ 2008 L 90, p. 7, 'the contested decision').

23 The contested decision, first, amends Article 2 of the 2003 decision, so that coordination centres whose applications for renewal of authorisation were pending on the date of notification of the 2003 decision, or whose authorisations expired at the same time as or soon after the notification of that decision, in other words between 18 February 2003 and 31 December 2005, are entitled to benefit from the scheme at issue until 31 December 2005, and renewal of their authorisations is permitted until that date. Next, as regards the four centres whose authorisations were renewed for an indefinite period following the Forum 187 order, the contested decision states that the Commission's press release of 16 July 2003 could have given rise to a legitimate expectation on their part that they would be able to benefit from the scheme at issue until the date of the judgment of the Court of Justice as to the substance. Since that judgment was delivered on 22 June 2006, and in view of the fiscal nature of the measure, the contested decision extends enjoyment of the legitimate expectation to allow those coordination centres to benefit from the scheme at issue until the end of the normal taxable period running on the date of the judgment. Finally, the contested decision declares the 2006 law incompatible with the common market in so far as it is designed to extend the scheme for coordination centres beyond 31 December 2005.

24 Article 1 of the contested decision reads:

'The following text is hereby added to Article 2 of [the 2003 decision]:

"The coordination centres with an application for renewal pending on the date on which the present Decision is notified or with an authorisation which expires at the same time as or shortly after such notification, i.e. between the date of notification and 31 December 2005, may continue to benefit from the scheme for coordination

centres until 31 December 2005. Renewal of the authorisation for the said coordination centres is hereby authorised until 31 December 2005 at the latest.'"

25 According to Article 2 of the contested decision:

'The four coordination centres in Belgium with an authorisation that has been renewed for an indefinite period on the basis of the [Forum 187 order] may benefit from the scheme for coordination centres until the end of the normal taxable period running on 22 June 2006.'

26 Article 3 of the contested decision provides:

'The [2006 law] is incompatible with the common market in so far as its provisions are designed to extend by way of new decisions to renew authorisations the scheme for coordination centres beyond 31 December 2005.

Accordingly, the Commission calls on Belgium to desist from implementing the relevant provisions of the [2006 law].'

27 Article 4 of the contested decision reads as follows:

'Article 1 shall apply with effect from 18 February 2003.'

Procedure and forms of order sought

28 By application lodged at the Registry of the Court on 22 February 2008, the applicant brought the present action.

29 By separate document lodged on the same date, the applicant applied for an expedited procedure, pursuant to Article 76a of the Court's Rules of Procedure. The Commission filed its observations on that application on 13 March 2008, outside the period prescribed. On 17 March 2008 the President of the Eighth Chamber of the Court decided to add those observations to the case-file. By decision of 19 March 2008, the Court (Eighth Chamber) dismissed the application for an accelerated procedure.

30 Upon hearing the report of the Judge-Rapporteur, the Court (Eighth Chamber) decided to open the oral procedure.

31 The parties presented oral argument and replied to the questions put by the Court at the hearing on 2 July 2009.

32 At the hearing the Commission was invited to add to the case-file the Royal Decree of 19 December 2008 adjusting the fiscal legislation on penalties in the case of non-payment or insufficient early payment by certain coordination centres (Arrêté royal adaptant la législation fiscale relative à la majoration en cas d'absence ou d'insuffisance de versement anticipé par certains centres de coordination, *Moniteur belge*, 30 December 2008, p. 68976), the applicant having stated that it had no objection to this. By letter lodged at the Court Registry on 3 July 2009, the Commission complied with that request.

33 The oral procedure was then closed on 13 July 2009.

34 The applicant claims that the Court should:

— annul the contested decision in so far as it does not provide for an adequate transitional period;

— order the Commission to pay the costs.

35 The Commission contends that the Court should:

— dismiss the application as inadmissible or unfounded;

— order the applicant to pay the costs.

Law

36 While not formally raising an objection of inadmissibility under Article 114 of the Rules of Procedure, the Commission submits that the action is inadmissible on the ground that the applicant has no interest in bringing proceedings and is not directly concerned by the contested decision. The plea of inadmissibility on the ground of lack of interest in bringing proceedings should be considered first.

Arguments of the parties

37 The Commission notes that, following the Forum 187 order, the Belgian authorities renewed the applicant's authorisation only until 31 December 2005. The applicant then sought on several occasions for its authorisation to be extended until 31 December 2010, but the Belgian authorities did not grant its requests. The Commission therefore submits that, on the date of bringing the action, the applicant had no right to benefit from the scheme at issue which it could assert as against the Belgian authorities. On the contrary, it is clear that those authorities deliberately limited the authorisation to 31 December 2005, the date of the end of the transitional period fixed by the contested decision. In the Commission's view, the applicant's position was thus definitively settled by the Belgian authorities by their decision to limit its authorisation to 31 December 2005, which was never contested in the Belgian courts.

38 The contested decision therefore merely confirms the applicant's right to benefit from the scheme at issue until the end of that authorisation. The date of 31 December 2005 was first laid down by the Belgian authorities and subsequently approved by the contested decision. Moreover, the transitional period defined in the contested decision is also based on the fact that the extension of the authorisations of all the centres, with four exceptions, until a specific date (the Forum 187 order did not specify a date) confirmed the view taken by the Belgian authorities and the coordination centres of an adequate transitional period. That date represented the objective of the Belgian authorities communicated to the Community authorities, as may be seen from recital 1 in the preamble to Decision 2003/531.

39 As to the applicant's argument that the Belgian authorities' decision to limit the renewal to 31 December 2005 derived from a concern to observe their Community obligations, the Commission responds that those authorities made a unilateral choice to limit the applicant's authorisation to 31 December 2005 without being forced to do so by Community law. The Forum 187 order suspended the 2003 decision in so far as it prohibited the renewal of the coordination centres authorisations, without providing a time-limit for the duration of the renewals. Moreover, the Belgian authorities granted renewals for longer periods for certain centres while refusing to do so for the applicant, although they could do so following the Forum 187 order.

40 As to the applicant's assertion that, applying Belgian law strictly, it had a right to the renewal of its authorisation for 10 years, the Commission replies that it is not for the courts of the European Union to rule on the interpretation of Belgian law. None the less, even if the applicant had such a right, it should in the Commission's view have brought legal proceedings challenging the limitation of its authorisation, which it did not do. That failure to bring proceedings appears to have rendered the temporal limitation of its authorisation definitive. The Commission further notes that the applicant has not explained why that failure to bring proceedings is, as it maintains, irrelevant.

41 In those circumstances, the Commission submits that the applicant has no interest in the annulment of the contested decision in so far as it did not provide for an adequate transitional period. It demonstrates no present legal interest and provides no evidence to show that the Belgian authorities intended to extend its authorisation beyond 31 December 2005.

42 The applicant submits that it has a personal, vested and present interest in bringing proceedings against the contested decision.

43 It disputes, to begin with, the claim that only centres which have an authorisation on the date of bringing their action may bring proceedings against the contested decision. That would deprive it of all possibility of challenging the contested decision. It therefore submits that to make the admissibility of the action subject to the existence of formal authorisation on the date of bringing the action, even though such authorisation depends on the definition of the transitional period in the contested decision, is not correct.

44 The applicant submits, next, that there exists a right to benefit from the scheme for coordination centres. First, it does not accept that the limitation of the duration of the authorisations to 31 December 2005 proceeds from the Belgian authorities' acknowledgement that a transitional period ending on that date was adequate. The limitation

in fact proceeded solely from Belgium's obligation to comply with the decisions of the European Union institutions, in particular the 2003 decision and the Forum 187 order. According to the applicant, the fact that the Belgian authorities complied with those measures cannot be used as an argument to deny its interest in bringing proceedings. Second, it does not accept that the limitation was a deliberate act of the Belgian authorities. It relies on the fact that, following the Forum 187 judgment, the Belgian authorities invited the centres concerned by that judgment to apply for confirmation of their authorisations, and on the adoption of the 2006 law and the associated parliamentary documents. Even if the limitation was deliberate, the applicant submits that the Belgian authorities were not authorised to make it by Royal Decree No 187, on which it bases its right concerning the duration of authorisation.

45 The applicant submits that its interest in bringing proceedings lies in having confirmation of the maintenance of the scheme at issue beyond 31 December 2005 and obtaining from the Belgian authorities the application of Royal Decree No 187. More precisely, citing the case-law, the applicant submits that it could assert its rights before the Belgian tax authorities and be entitled to obtain, pursuant to Royal Decree No 187, an extension to 31 December 2010 of the authorisation which expired on 31 December 2005, which justifies its interest in bringing proceedings.

46 The application also challenges the assertion that it has not produced evidence to show that the Belgian authorities had the intention of extending its authorisation beyond 2005. The letter which those authorities sent it on 11 June 2008 constitutes such evidence.

47 Finally, the applicant claims that no consequences can be drawn from the fact that the Belgian authorities did not seek annulment of the contested decision. As regards the fact that it did not bring an action against the royal decree of 10 June 2004, that is not relevant to the admissibility of the present action. Moreover, as long as an adequate transitional period has not been recognised, any proceedings against the Belgian authorities would be of no avail.

Findings of the Court

48 It is settled case-law that an action for annulment brought by a natural or legal person is admissible only in so far as the applicant has an interest in the annulment of the contested measure. Such an interest presupposes that the annulment of the measure must of itself be capable of having legal consequences and that the action must be likely, if successful, to procure an advantage for the party who brought it (see order in Case T-387/04 *EnBW Energie Baden-Württemberg* v *Commission* [2007] ECR II-1195, paragraph 96 and the case-law cited).

49 That interest must be vested and present (Case T-138/99 *NBV and NVB* v *Commission* [1992] ECR II-2181, paragraph 33) and is evaluated as at the date on which the action is brought (Case 14/63 *Forges de Clabecq* v *High Authority* [1963] ECR 357, at 371, and Case T-159/98 *Torre and Others* v *Commission* [2001] ECR II-395, paragraph 28). It must, however, continue until the final decision, failing which there will be no need to adjudicate (see, to that effect, Case C-362/05 P *Wunenburger* v *Commission* [2007] ECR I-4333, paragraph 42 and the case-law cited).

50 In the present case, it must be recalled that, in accordance with Article 1 of the contested decision, which amends Article 2 of the 2003 decision, the applicant could continue to benefit from the scheme for coordination centres until 31 December 2005.

51 It must then be observed that, following the Forum 187 order, the Belgian authorities by a royal decree of 10 June 2004 renewed the applicant's authorisation for a period ending on 31 December 2005 and that, despite the requests it made to the Belgian

authorities, it did not obtain an extension or renewal of the authorisation granted by that royal decree.

52 The limitation of the applicant's authorisation to 31 December 2005 was decided by the Belgian authorities alone, who were not compelled to do so. The Forum 187 order suspended the 2003 decision in so far as it prohibited the renewal of the authorisations of the coordination centres, without setting a time-limit for the length of the renewals other than the delivery of the Court of Justice's judgment in the main proceedings. Moreover, as the applicant accepted at the hearing in reply to a question from the Court, the Belgian authorities could have renewed its authorisation for an indefinite period, as indeed was done in the case of four centres, despite the fact that, in accordance with the Forum 187 order, the renewal could not have effect beyond the Forum 187 judgment. The applicant's argument that the limitation by the Belgian authorities of the renewal of its authorisation to 31 December 2005 derived from the Kingdom of Belgium's obligation to comply with its Community obligations, and its argument disputing that that limitation was a deliberate act of the Belgian authorities, must therefore be rejected.

53 It follows that, since 31 December 2005, the applicant has no longer had a valid authorisation under Belgian law, and thus no longer validly benefits from the tax scheme for coordination centres. The applicant nevertheless asserts in its application that it continued to benefit from the tax scheme for coordination centres after 31 December 2005, in particular in 2006 and 2007. In reply to a question from the Court about that assertion, the applicant stated, in its reply, that it was to be understood as meaning that it claimed the application on the scheme in respect of 2006 and 2007. That claim found expression in particular in an application to the Belgian authorities for confirmation of the maintenance of the status of coordination centre until 31 December 2010, the submission of tax returns for 2006 and 2007 with the application of the scheme, and keeping the Belgian tax authorities constantly informed of its position. This argument cannot be accepted, however. That the applicant sought the application of the scheme does not mean that it continued to benefit from it in accordance with Belgian law.

54 In those circumstances, the applicant cannot claim the application of a transitional period within the meaning of the Forum 187 judgment expiring after that fixed in the contested decision, that is, after 31 December 2005.

55 The very purpose of a transitional period is to ensure the passage from one situation to another, in this case from the situation in which the applicant benefits from the tax scheme for coordination centres to that in which it no longer does so. Therefore, according to the Forum 187 judgment (paragraph 163), the centres concerned by that judgment, including the applicant, had to be allowed a reasonable transitional period so that they could adapt to the consequences of the 2003 decision.

56 Since, from 31 December 2005, the applicant no longer benefits from the tax scheme for coordination centres, any period subsequent to that date during which it benefited from that scheme could not be regarded as having the purpose of enabling it to adapt, given that it is already in that new situation. Consequently, if the present action were to be successful, the applicant could not retroactively be granted a transitional period after 31 December 2005, in that such a period would be devoid of purpose.

57 The impossibility of benefiting, even retroactively, from a longer transitional period where centres no longer have a valid authorisation follows, moreover, from the Forum 187 order. In connection with the application for suspension of the 2003 decision prohibiting the renewal of the authorisations of certain centres, the President of the Court of Justice considered that, if the suspension sought were not granted, a decision on the main issue in favour of the applicants would, as regards the transitional regime, be largely ineffective, since any financial measures which might be taken did not appear suitable for retroactively restoring the stability of the legislation applicable to the coordination centres (Forum 187 order, paragraph 146).

58 Accordingly, having regard to the subject-matter of the action, namely the annulment of the contested decision in so far as it does not provide for a reasonable transitional period, the annulment of that decision on that basis would not procure any benefit for the applicant.

59 None of the arguments put forward by the applicant can call into question the above considerations.

60 As regards the applicant's argument that its interest lies in having confirmation of the maintenance of the scheme in question beyond 31 December 2005 and obtaining from the Belgian authorities the application of Royal Decree No 187, it admittedly follows from the case-law that, if it cannot be excluded that an applicant may, if its action is successful, be able to put forward certain claims before the national authorities, or at least have its application examined by them, the applicant has an interest in bringing the action (see, to that effect, Case T-9/98 *Mitteldeutsche Erdöl-Raffinerie* v *Commission* [2001] ECR II-3367, paragraphs 34 and 38, and judgment of 12 September 2007 in Case T-348/03 *Koninglijke Friesland Foods* v *Commission*, not published in the ECR, paragraph 72).

61 In the present case, however, even if the action were successful, the applicant would not have any claim to put forward before the Belgian authorities specifically concerning the transitional period for its benefit which is the subject-matter of the present action. As appears from the foregoing, even if they intended to do so, the Belgian authorities could not grant the applicant, even retroactively, an extension of the transitional period that was granted it, since it no longer benefits from the tax scheme for coordination centres. Next, the provisions of the 2003 decision declaring that scheme to be aid incompatible with the common market and requiring the Belgian authorities to abolish it or amend it so as to make it compatible with the common market were not annulled by the Court of Justice in the Forum 187 judgment. They thus have effect since the adoption of the 2003 decision, so that the Belgian authorities could not renew the applicant's authorisation on the sole basis of Royal Decree No 187.

Moreover, if the contested decision were annulled, a new decision of the Commission would be needed to define the new transitional period the centres could benefit from, as the General Court is not entitled, in an action for annulment, to substitute another decision for the contested decision or to amend that decision (order in Case C-428/98 P *Deutsche Post* v *IECC and Commission* [2000] ECR I-3061, paragraph 28, and Case T-199/99 *Sgaravatti Mediterranea* v *Commission* [2002] ECR II-3731, paragraph 141).

62 In those circumstances, the conclusion must be, first, that the applicant cannot base an interest in bringing proceedings on the application of Royal Decree No 187 after 31 December 2005 and, second, that it is not material that the Belgian authorities did not rule out allowing it to benefit from the scheme at issue after that date.

63 Furthermore, an applicant cannot rely on future uncertain circumstances to establish his interest in seeking annulment of the contested measure (see Case T-141/03 *Sniace* v *Commission* [2005] ECR II-1197, paragraph 26 and the case-law cited). It is clear that, the above considerations notwithstanding, none of the evidence put forward by the applicant allows it to be established with certainty that if the contested decision were annulled the Belgian authorities would retroactively extend its authorisation beyond 31 December 2005 on the basis of Royal Decree No 187. In particular, that does not follow from the letters of the Belgian authorities produced as annexes to the application, which essentially do no more than acknowledge the receipt of the applicant's letters, or from their letter of 11 June 2008 annexed to the reply, which states that, as long as no definitive ruling has been given on the present action, the Belgian tax authorities will not apply any increased tax or other penalties or administrative fines following the rejection of the request made in the applicant's tax returns for the application of the scheme for coordination centres. Contrary to the applicant's assertions, those factors cannot be regarded as evidence showing with certainty and unconditionally that the Belgian authorities had the intention of extending its authorisation beyond 31 December 2005. The fact that the Belgian authorities issued supplementary tax notices for 2006 and 2007, applying the normal tax rules, is in fact evidence to the contrary.

64 As to the 2006 law, it cannot in any event justify an interest in bringing proceedings on the part of the applicant. The provisions of that law which concern the tax scheme for coordination centres did not come into force. The date of their entry into force was to be fixed, in accordance with Article 298 of the law, by a royal decree made in the Council of Ministers, which was not adopted. As appears from recital 18 of the contested decision, the Belgian authorities made that entry into force conditional on confirmation by the Commission that it had no objections. However, the contested decision provides, in Article 3, that the 2006 law is incompatible with the common market in so far as it is designed to extend the scheme for coordination centres beyond 31 December 2005 by means of new decisions renewing authorisations. It must be noted that, according to the sixth recital in the preamble to the royal decree of 19 December 2008, the Belgian authorities 'accepted the [contested decision] not to bring into force [the 2006 law]' in so far as it related to the scheme for coordination centres, and informed the taxpayers concerned. It follows that the Belgian authorities do not intend to bring that law into force. Moreover, the applicant does not expressly challenge the contested decision in so far as it relates to the 2006 law, and it confirmed at the hearing that it was not necessary for it to rely on that law.

65 Finally, the applicant's argument that the admissibility of the action cannot be conditional on the existence of an authorisation on the date of bringing the action, when such authorisation depends on the definition of the transitional period in the contested decision, must be rejected. As follows from the foregoing, the date on which the applicant ceased to enjoy a valid authorisation, and by which it therefore had to have taken the necessary steps to adapt, was fixed by the Belgian authorities alone, not by the contested decision. Furthermore, the admissibility of the present action is subject to the existence of an interest in bringing proceedings on the part of the applicant, not on the existence of a valid authorisation at the time of bringing the action, even if that fact may have a bearing on the examination of the interest in bringing proceedings.

66 It must be concluded, in the light of all the foregoing, that the applicant has no interest in bringing proceedings.

67 The action must consequently be dismissed as inadmissible, without there being any need to consider the plea of inadmissibility raised by the Commission on the ground that the applicant is not directly concerned.

Costs

68 Under Article 87(2) of the Rules of Procedure, the unsuccessful party is to be ordered to pay the costs, if they have been applied for in the successful party's pleadings. In the present case, since the applicant has been unsuccessful, it must be ordered to pay the costs, in accordance with the form of order sought by the Commission.

On those grounds,

THE GENERAL COURT (Eighth Chamber)

hereby:

1. Dismisses the action as inadmissible;

2. Orders Centre de coordination Carrefour SNC to pay the costs.

Martins Ribeiro Papasavvas Dittrich

Delivered in open court in Luxembourg on 18 March 2010.

[Signatures]