

Finally, the applicants claim that by failing to initiate an interim review the Community institutions committed a manifest error of assessment and breached Article 1(4) of the basic regulation when they based their findings on too broad scope of products which led them to compare unlike products and thus arrive at invalid findings.

- (<sup>1</sup>) Council Regulation (EC) No 1796/1999 of 12 August 1999 as amended by Council Regulation (EC) No 1858/2005 of 8 November 2005 imposing a definitive anti-dumping duty on imports of steel ropes and cables originating in the People's Republic of China, India, South Africa and Ukraine following an expiry review pursuant to Article 11(2) of Regulation (EC) No 384/96 (OJ 2005 L 299, p. 1) and Council Regulation (EC) No 1601/2001 of 2 August 2001 as amended by Council Regulation (EC) No 1279/2007 of 30 October 2007 imposing a definitive anti-dumping duty on certain iron or steel ropes and cables originating in the Russian Federation, and repealing the anti-dumping measures on imports of certain iron or steel ropes and cables originating in Thailand and Turkey (OJ 2007 L 285, p. 1).
- (<sup>2</sup>) Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community (OJ 1996 L 56, p. 1).

**Action brought on 5 September 2008 — Csepeli Áramtermelő v Commission**

(Case T-370/08)

(2008/C 301/76)

*Language of the case: English*

**Parties**

*Applicant:* Csepeli Áramtermelő kft (Budapest, Hungary) (represented by: Á. Mátyus, K. Ferenczi, B. van de Walle de Ghelcke, T. Franchoo, and D. Fessenko, lawyers)

*Defendant:* Commission of the European Communities

**Form of order sought**

— Annul the decision in so far as it identifies Csepel as a beneficiary of State aid that is considered to be incompatible with the common market, and in so far as the decision orders Hungary to recover this alleged State aid, including interest, from Csepel; and

— To order the Commission to pay the costs.

**Pleas in law and main arguments**

The applicant requests the annulment of Commission Decision C(2008) 2223 final, of 4 June 2008 (Case C-41/2005 —

Hungarian stranded costs), in so far as it identifies the applicant as a beneficiary of State aid that is considered to be incompatible with the common market, and in so far as the decision orders Hungary to recover the alleged State aid, including interest, from the applicant.

The applicant claims that the Commission failed to evidence and appropriately justify its conclusion that the power purchase agreement ('PPA') concluded between the applicant — owner of a power generation facility in Hungary ultimately acquired by Atel AG — and the Hungarian state-owned electricity wholesaler, Magyar Villamos Művek Rt. ('MVM'), constitutes incompatible State aid. In support of its claims, the applicant raises the following pleas in law:

In its first plea, the applicant submits that the Commission infringed Article 253 EC and Article 87(1) EC by failing to state reasons and by making a manifest error of assessment in finding that the applicant's PPA conferred an economic advantage to the applicant.

In its second plea, the applicant submits that the Commission committed a manifest error of assessment in concluding that the applicant's PPA distorts competition.

In its third plea, the applicant contends that the Commission infringed the principles of proportionality and equal treatment, in that the recovery obligation is unjustified in the specific circumstances of the case on the basis of general principles of Community law. In addition, the applicant claims that the Commission made a manifest error of assessment regarding the methodology that it applied in order to calculate the amounts to be recovered.

**Appeal brought on 8 September 2008 by Bart Nijs against the order of the Civil Service Tribunal delivered on 26 June 2008 in Case F-5/07 Nijs v Court of Auditors**

(Case T-371/08 P)

(2008/C 301/77)

*Language of the case: French*

**Parties**

*Appellant:* Bart Nijs (Bereldange, Luxembourg) (represented by F. Rollinger and A. Hertzog, lawyers)

*Other party to the proceedings:* Court of Auditors of the European Communities