

- failure to state adequate reasons as regards the amendment of the subject-matter of the procedure opened for the misuse of aid measure No 278/99, and the 'extension' which led to the adoption of the contested decision;
- infringement of Article 88(2) EC in so far as the statement in recital 74 of the decision, regarding the unlawful implementation of the aid in question, is outside the scope of that provision;
- breach of the principle of transparency;
- failure to state adequate reasons as regards the principle of the reasonable duration of the formal investigation procedure;
- failure to state reasons as regards the recovery of the aid already disbursed, having regard to the fact that this point was also of particular importance in relation to the principle of the protection of legitimate interests of third parties and to the unreasonably lengthy duration of the proceedings;
- breach of the *de minimis* principle laid down in Commission Regulation (EC) No 69/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to *de minimis* aid ⁽²⁾.

⁽¹⁾ OJ L 83, 27.3.1999, p. 1.

⁽²⁾ OJ L 10, 13.1.2001, p. 30.

Action brought on 3 October 2008 — Timsas v Commission

(Case T-453/08)

(2008/C 301/97)

Language of the case: Italian

Parties

Applicant: Timsas Srl (Arezzo, Italy) (represented by: D. Dodaro, S. Pinna and S. Cianciullo, lawyers)

Defendant: Commission of the European Communities

Forms of order sought

- Annul the Decision in so far as it:
 - (a) states that '[t]he [S]tate aid granted in accordance with Regional Act No 9 of 1998, unlawfully put into effect by Italy in Resolution (*deliberazione*) No 33/6 and in the first call for applications, is incompatible with the common market unless the recipient of the aid

submitted an application for aid under the scheme before starting work on an initial investment project' (Article 1 of the Decision);

- (b) orders that '[t]he Italian Republic shall recover the incompatible aid granted under the scheme referred to in Article 1 from the recipients' (Article 2(1) of the Decision);
 - (c) orders that '[t]he The Italian Republic shall cancel all outstanding payments of aid under the scheme referred to in Article 1 with effect from the date of adoption of this Decision' (Article 2(4) of the Decision).
- Order the Commission to pay the costs of the present proceedings.

Pleas in law and main arguments

The contested decision in the present case is the same as that at issue in Case T-394/08 *Regione Sardegna v Commission*, Case T-408/08 *S.F. Turistico Immobiliare v Council and Commission* and Case T-436/08 *Studio Vacanze v Commission*.

The pleas in law and main arguments are similar to those put forward in those cases.

Action brought on 6 October 2008 — Grand Hotel Abi d'Oru v Commission

(Case T-454/08)

(2008/C 301/98)

Language of the case: Italian

Parties

Applicant: Grand Hotel Abi d'Oru SpA (Olbia, Italy) (represented by: D. Dodaro and S. Cianciullo, lawyers)

Defendant: Commission of the European Communities

Forms of order sought

- Annul the Decision in so far as it:
 - (a) states that '[t]he [S]tate aid granted in accordance with Regional Act No 9 of 1998, unlawfully put into effect by Italy in Resolution (*deliberazione*) No 33/6 and in the first call for applications, is incompatible with the common market unless the recipient of the aid submitted an application for aid under the scheme before starting work on an initial investment project' (Article 1 of the Decision);