



Reports of Cases

Case C-559/12 P

French Republic
v
European Commission

(Appeal — State aid — Aid in the form of an implied, unlimited guarantee in favour of La Poste as a result of its status as a publicly-owned establishment — Existence of the guarantee — Presence of State resources — Advantage — Burden and standard of proof)

Summary — Judgment of the Court (First Chamber), 3 April 2014

- Judicial proceedings — Application initiating proceedings — Formal requirements — Identification of the subject-matter of the dispute — Brief summary of the pleas in law on which the application is based — Unambiguous wording of the form of order sought by the applicant*
(Rules of Procedure of the General Court, Art. 44(1)(c))
- Judicial proceedings — Introduction of new pleas during the proceedings — Plea in law stated coherently and intelligibly in the application — No new plea — Effects of an incorrect categorisation of a new plea in law*
(Rules of Procedure of the General Court, Arts 44(1)(c) and 48(2))
- State aid — Administrative procedure — Obligations of the Commission — Diligent and impartial examination — Taking account of the most complete and reliable information possible — Scope of the obligation*
(Art. 108(2) TFEU)
- State aid — Commission decision finding State aid to be incompatible with the internal market — Burden of proof — Commission relying on a firm, precise and consistent body of evidence to determine a sufficiently concrete economic risk of burdens on the State budget — Lawfulness*
(Art. 107(1) TFEU)
- Appeal — Grounds — Incorrect assessment of the facts and evidence — Review by the Court of the findings of fact — Possible only where the clear sense of the evidence has been distorted*
(Art. 256 TFEU; Statute of the Court of Justice, Art. 58, first para.)
- Appeal — Grounds — Inadequate statement of reasons — Reliance by the General Court on implied reasoning — Lawfulness — Conditions*
(Art. 256 TFEU; Statute of the Court of Justice, Arts 36 and 53, first para.)

7. *State aid — Concept — Grant of an advantage to the beneficiaries — State guarantee in favour of an undertaking not subject to the ordinary compulsory administration and winding-up procedures — Proof of the existence of that guarantee by reason of a presumption of an improvement in the financial position of that undertaking*

(Art. 107(1) TFEU; Commission Notice 2008/C 155/02, paras 1.2, 2.1 and 2.2)

8. *Appeal — Grounds — Contradictory grounds — Ground incapable of leading to the judgment under appeal being set aside in the presence of an operative part well founded on other legal grounds*

(Art. 256 TFEU; Statute of the Court of Justice, Arts 36 and 53, first para.)

1. See the text of the decision.

(see paras 38, 39)

2. An argument whose essential matters and the summary of that argument are stated coherently and intelligibly in the application initiating proceedings, even if the application does not contain a formal plea in law in that respect, does not constitute a new plea in law raised at the stage of the reply.

However, the incorrect categorisation of the new plea in law cannot lead to the judgment under appeal being set aside, since the General Court conducted a full and complete review of the merits of the argument stated in the application initiating proceedings.

(see paras 40, 45, 46)

3. According to the principles on the administration of proof in the sector of State aid, the Commission is required to conduct a diligent and impartial examination of the contested measures, so that it has at its disposal, when adopting the final decision establishing the existence and, as the case may be, the incompatibility or unlawfulness of the aid, the most complete and reliable information possible for that purpose.

(see para. 63)

4. In the context of a procedure to examine State aid, in order to prove the existence of an implied and unlimited State guarantee — not resulting expressly from any legislative or contractual text — in favour of a public establishment and to establish accordingly that the condition relating to the presence of State resources was satisfied, it is permissible for the Commission to rely on the method of a firm, precise and consistent body of evidence to determine whether there is, in domestic law, a real obligation on the State to use its own resources for the purposes of covering losses of such an establishment in default and, therefore, a sufficiently concrete economic risk of burdens on the State budget.

(see paras 64, 65)

5. See the text of the decision.

(see paras 78-80)

6. See the text of the decision.

(see paras 85, 86)

7. A simple presumption exists that the grant of an implied and unlimited State guarantee in favour of an undertaking which is not subject to the ordinary compulsory administration and winding-up procedures results in an improvement in its financial position through a reduction of charges which would normally encumber its budget. Consequently, in the context of the procedure relating to existing schemes of aid, to prove the advantage obtained by such a guarantee to the recipient undertaking, it is sufficient for the Commission to establish the mere existence of that guarantee, without having to show the actual effects produced by it from the time that it is granted.

(see paras 98, 99)

8. Since the General Court correctly found that the Commission has observed, in a procedure to examine State aid, the burden and the level of proof on it in order to establish whether an implied and unlimited State guarantee constitutes an advantage, the fact that the General Court, in addition, adopted contradictory and insufficient reasoning cannot invalidate the judgment under appeal.

(see paras 103, 104)