

**Re:**

Appeal against the judgment of the General Court (Second Chamber) of 27 September 2011 in Case T-30/03 RENV 3F v *Commission* by which the General Court dismissed the application for annulment of Commission Decision C(2002) 4370 final of 13 November 2002 finding the tax-reduction measures applicable to seafarers on board Danish vessels to be State aid compatible with the common market (Case C-319/07 P referred back after successful appeal)

**Operative part of the judgment**

*The Court:*

1. *Dismisses the appeal;*
2. *Orders Falles Fagligt Forbund (3F) to pay the costs;*
3. *Orders the Kingdom of Denmark to bear its own costs.*

(<sup>1</sup>) OJ C 65, 3.3.2012.

**Appeal brought on 23 November 2012 by Luigi Marcuccio against the order of the General Court (Third Chamber) delivered on 11 September 2012 in Case T-241/03 REV Marcuccio v Commission**

(Case C-534/12 P)

(2013/C 71/08)

*Language of the case: Italian*

**Parties**

*Appellant:* Luigi Marcuccio (represented by: G. Cipressa, lawyer)

*Other party to the proceedings:* European Commission

**Form of order sought**

— Set aside in its entirety the order of the General Court of the European Union of 11 September 2012 in Case T-241/03 REV.

- (a) Declare to be admissible the application lodged by the appellant on 27 December 2011 for revision of the order of the First Chamber of the General Court of 17 May 2006 in the proceedings already decided by the General Court in Case T-241/03, the application of 27 December 2011 having initiated the proceedings at first instance and, as a consequence, order that the case be proceeded with as a matter of law, and
- (b) order the respondent to reimburse the appellant in respect of the costs incurred by him in connection with the present proceedings; or

— in the alternative, refer the case back to the General Court so that it may give a fresh ruling on the admissibility of the application of 27 December 2011 and, subsequently, if appropriate, proceed with the case.

**Pleas in law and main arguments**

1. *Errores in procedendo*, affecting the appellant's interests, inherent in the serious *errores in iudicando*, including, inter alia: (a) total failure to investigate adequately and to state reasons in the order under appeal; (b) breach of essential procedural requirements; (c) breach of the principle of mandatory jurisdiction on the part of the proper court specified by law to hear a case; (d) breach of the first subparagraph of Article 64(4) of the Rules of Procedure of the General Court, of Article 127(1) and (2) of those rules and, lastly, of the procedural right by which the appellant is vested with authority to propose to the Court, at any time, a measure of organisation of procedure relating to the case.
2. Breach of the first and second subparagraphs of Article 44 of the Statute of the Court of Justice of the European Union.
3. Breach of a principle of law contained in a judgment of the EU judicature, namely the judgment delivered by the Court of Justice of the European Union on 13 October 1977 in Case C-56/75 REV *Elz v EC*.
4. Total failure to investigate adequately and to state reasons in the order under appeal, on the grounds, inter alia, of distortion and misapplication of the facts and the appellant's assertions.

**Request for a preliminary ruling from the Oberster Gerichtshof (Austria) lodged on 3 December 2012 — KONE AG, Otis GmbH, Schindler Aufzüge und Fahrtreppen GmbH, Schindler Liegenschaftsverwaltung GmbH, ThyssenKrupp Aufzüge GmbH v ÖBB-Infrastruktur AG**

(Case C-557/12)

(2013/C 71/09)

*Language of the case: German*

**Referring court**

Oberster Gerichtshof

**Parties to the main proceedings**

*Appellants:* KONE AG, Otis GmbH, Schindler Aufzüge und Fahrtreppen GmbH, Schindler Liegenschaftsverwaltung GmbH, ThyssenKrupp Aufzüge GmbH