

Pleas in law and main arguments

The appellant raises four grounds of appeal seeking that the judgment of the General Court be set aside.

Firstly, the appellant submits that the General Court infringed Article 107(1) TFEU in holding that the Commission erred in law in finding that the sale of the Société nationale maritime Corse-Méditerranée at a negative price of EUR 158 million did not constitute State aid. The appellant criticises the General Court for having considered that the Commission could not take into account the risk that the brand image of the State, as a global economic actor in the private sector, would be adversely affected, in the context of the reasonable private investor test, in order to determine whether the payment of supplementary redundancy payments to SNCM's employees in the event of the liquidation of that undertaking would also have been made by a reasonable private investor. In addition, it criticises the General Court for having demanded evidence from the Commission that the payment of supplementary redundancy payments constituted a sufficiently established practice, or even the normal practice, among private entrepreneurs.

Secondly, the General Court committed an error in law derived from the infringement of Article 107(1) TFEU by holding that the Commission did not take into account all the relevant evidence in its analysis of the comparability of the capital contribution of EUR 8,75 million made by SNCM's public shareholder and the capital contribution of EUR 26,25 million made by the private purchasers, and that the Commission ought to have taken into account the clause to cancel the sale conceded to the private purchasers in the context of SNCM's privatisation.

Thirdly, the General Court infringed Article 36 of the Statute of the Court of Justice, read in combination with the first paragraph of Article 53 thereof, and Article 81 of the Rules of Procedure of the General Court, by treating as State aid the measures involving aid to individuals amounting to EUR 38,5 million, without ascertaining, in the alternative, whether that measure met the reasonable private investor test, as maintained by the Commission in the contested decision and the French Government at the hearing before the General Court.

Lastly, the General Court erred in law in holding that the Commission committed a manifest error of assessment in approving the balance for restructuring under Article 107(3)(c) TFEU and the Guidelines.

Action brought on 27 November 2012 — European Commission v Republic of Cyprus

(Case C-545/12)

(2013/C 32/11)

Language of the case: Greek

Parties

Applicant: European Commission (represented by: P. Hetsch, J. Hottiaux and M. Constantinidis, Agents)

Defendant: Republic of Cyprus

Form of order sought

The applicant claims that the Court should:

- Declare that by not adopting all the laws, regulations and administrative provisions necessary to comply with Directive 2006/126/EC of the European Parliament and of the Council of 20 December 2006 on driving licences (recast) (OJ 2006 L 403 p. 18) and, in any event, by not communicating to the Commission the text of those provisions, the Republic of Cyprus failed to fulfil its obligations under Article 16 of that directive;
- impose on the Republic of Cyprus, pursuant to Article 260(3) TFEU, payment of a daily penalty payment amounting to EUR 6 504,96 from the date of publication of the judgment of the Court;
- order the Republic of Cyprus to pay the costs.

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Article 16(1) of Directive 2006/126/EC obliges the Member States to adopt and publish, no later than 19 January 2011, the laws, regulations and administrative provisions necessary to comply with the new provisions which the directive concerned introduces and specifies.

The Republic of Cyprus has not fully transposed into domestic law the provisions of the directive. In particular, the Commission has ascertained that, at the date of lodging of the action, the Republic of Cyprus had not transposed into its domestic law Articles 1(1), 3, 7(1), 7(3), 7(5), 10 and 15 or Annex I, point 2, Annex II, point 5.2 or Annexes IV, V and VI of the directive.

Consequently, the Commission considers that the Republic of Cyprus failed to fulfil its obligations under Article 260(3) TFEU.

⁽¹⁾ OJ 2009 L 225, p. 180