



Reports of Cases

Judgment of the Court (Tenth Chamber) of 10 November 2022 – ITD and Danske Fragtmænd v Commission

(Case C-442/21 P)¹

(Appeal – State aid – Postal sector – Compensation for the discharge of a universal service obligation – Calculation – Net avoided cost methodology – Taking into account the intangible benefits of the universal service – Use of funds granted as compensation – Guarantee covering the redundancy costs of a certain category of employee in the event of insolvency of the universal service provider – Accounting allocation of common costs between universal service activities and non-universal service activities – Decision declaring the aid compatible with the internal market)

1. *Appeal – Grounds – Incorrect assessment of the facts and evidence – Inadmissibility – Review by the Court of the assessment of the facts and evidence – Possible only where the facts or evidence have been distorted – Ground of appeal alleging distortion of the clear sense of the evidence – Need to indicate precisely the evidence alleged to have been distorted and show the errors of appraisal which led to that distortion*

(Art. 256 TFEU; Statute of the Court of Justice, Art. 58, first para.; Rules of Procedure of the Court, Art. 168(1)(d))

(see paragraphs 73-78, 84, 137)

2. *State aid – Prohibition – Exceptions – Undertakings entrusted with the operation of services of general economic interest – Compensation for the costs generated by the public service mission – Guarantee covering the redundancy costs of a certain category of employee in the event of insolvency of the universal service provider – Whether permissible*

(Art. 106(2) TFEU; Commission communication 2012/C 8/03, point 21)

(see paragraphs 97-105)

3. *State aid – Definition – Grant of an advantage to the beneficiaries – State guarantee granted to an undertaking without any consideration in return and covering redundancy payments to former civil servants in the event of the bankruptcy of the undertaking – Included – Conditions – Improvement in the company's financial situation – None*

(Art. 107(1), TFEU)

¹ OJ C 382, 20.9.2021.

(see paragraphs 113-115)

Operative part

The Court:

1. Dismisses the appeal;
2. Orders ITD, Brancheorganisation for den danske vejgodstransport A/S and Danske Fragtmænd A/S to bear, in addition to their own costs, those incurred by the European Commission;
3. Declares that the Kingdom of Denmark and Post Danmark are to bear their own costs.