

**Appeal brought on 7 August 2006 by La Poste against the judgment of the Court of First Instance delivered on 7 June 2006 in Case T-613/97 Union française de l'express (Ufex) and Others v Commission of the European Communities**

(Case C-342/06 P)

(2006/C 249/10)

*Language of the case: French*

**Parties**

*Appellant:* La Poste (represented by: H. Lehman, avocat)

*Other parties to the proceedings:* Commission of the European Communities, French Republic, Chronopost SA, Union française de l'express (Ufex), DHL International SA, Federal express international (France) SNC, CRIE SA

**Form of order sought**

The applicant claims that the Court should:

- set aside the judgment of the Court of First Instance of 7 June 2006 inasmuch as it annulled Commission Decision 98/365/EC of 1 October 1997 concerning alleged State aid granted by France to SFMI-Chronopost<sup>(1)</sup> in so far as it finds that neither the logistical and commercial assistance provided by La Poste to its subsidiary, SFMI-Chronopost, nor the transfer of Postadex constitute State aid to SFMI-Chronopost;
- order Union française de l'express, DHL International, Federal express international and CRIE to pay the costs incurred by La Poste before the Court of First Instance and the Court of Justice.

**Pleas in law and main arguments**

The applicant puts forward three grounds of appeal.

By its first ground of appeal, the applicant alleges that the Court of First Instance has infringed Article 6 EU and Article 6(1) of the European Convention on the Protection of Human Rights and Fundamental Freedoms in so far as that Court did not provide all of the necessary guarantees of impartiality as the judge who acted as Rapporteur in the contested judgment of 7 June 2006 was also the President of the Chamber which adopted the judgment — set aside by the Court of Justice — in Case T-613/97 *Ufex and Others v Commission* [2000] ECR II-4055.

By its second ground of appeal, which is in two parts, the applicant alleges that the Court committed several errors of law and of procedure. First, the Court did not declare inadmissible certain pleas in law which were not included in the initial application and examined them, in infringement of Article

48(2) of the Rules of Procedure of the Court of First Instance. Second, that Court committed an error of law in wrongly taking the view that the transfer of an economic activity to a subsidiary constitutes, essentially, State aid. The Court more particularly misconstrued that concept by not taking into account the particular situation of the transfer to a subsidiary of an economic activity previously carried out by the State and by not establishing the effects on the market of the measure examined.

By its third ground of appeal, the applicant finally alleges that the Court imposed on the Commission an obligation to state reasons which was excessive, in infringement of Article 88 EC, which confers on the Commission a broad discretion in the making of complex economic assessments, and Article 253 EC, which does not require the grounds of a decision rejecting a complaint to be as detailed as an accountant's report.

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<sup>(1)</sup> OJ 1998 L 164, p. 37.

**Appeal brought on 17 August 2006 by the Commission of the European Communities against the judgment of the Court of First Instance (First Chamber) delivered on 6 June 2006 in Case T-10/02 Girardot v Commission**

(Case C-348/06 P)

(2006/C 249/11)

*Language of the case: French*

**Parties**

*Appellant:* Commission of the European Communities (represented by: D. Martin, F. Clotuche-Duvieusart, Agents)

*Other party to the proceedings:* Marie-Claude Girardot

**Form of order sought**

In its appeal, the appellant claims that the Court should:

- set aside the judgment of the Court of First Instance of 6 June 2006 in Case T-10/02;
- order the Commission to pay Ms Girardot the sum of EUR 23 917,40;
- order that the parties should bear their own costs in the appeal proceedings and in the proceedings before the Court of First Instance of the European Communities