



Reports of Cases

Judgment of the General Court (Fifth Chamber) of 20 March 2013 — Andersen v Commission

(Case T-92/11)

(State aid — Aid granted by the Danish authorities to the public undertaking DSB — Public service contracts for the supply of passenger rail transport services between Copenhagen and Ystad — Decision declaring the aid compatible with the internal market subject to conditions — Temporal application of rules of substantive law)

1. *Actions for annulment — Natural or legal persons — Interest in bringing proceedings — Need for an actual and current interest — Assessment at the time the action was brought — Action capable of securing a benefit for the applicant (Art. 263, fourth para., TFEU) (see paras 29, 30)*
2. *Judicial proceedings — Intervention — Application designed to support the arguments of one of the parties but developing another line of argument — Admissibility — Arguments altering the framework of the dispute — Inadmissibility (Statute of the Court of Justice, Arts 40, fourth para., and 53; Rules of Procedure of the General Court, Art. 116(3)) (see paras 31, 41)*
3. *Acts of the institutions — Temporal application — Procedural rules — Substantive rules — Distinction — Retrospective effect of a substantive rule — Conditions (see paras 34-36, 45, 56)*
4. *State aid — Planned aid — Examination by the Commission — Aid notified without being paid — Application of the substantive rules of law in force at the time when the Commission adopted the decision (Art. 88 EC) (see paras 39, 54)*
5. *State aid — Prohibition — Exceptions — Obligation on the Commission to assess the compatibility of aid by reference to the substantive rules in force at the time it was paid — Application of Regulation No 1370/2007 to public transport service contracts concluded before the regulation entered into force — Exclusion (Art. 87 EC; European Parliament and Council Regulation No 1370/2007) (see paras 40-57)*
6. *State aid — Prohibition — Exceptions — Discretion of the Commission — Judicial review — Limits (Art. 87 EC) (see para. 58)*

Re:

APPLICATION for partial annulment of Commission Decision 2011/3/EU of 24 February 2010 concerning public transport service contracts between the Danish Ministry of Transport and Danske Statsbaner (Case C 41/08 (ex NN 35/08)) (OJ 2011 L 7, p. 1).

Operative part

The Court:

1. Annuls the second paragraph of Article 1 of Commission Decision 2011/3/EU of 24 February 2010 concerning public transport service contracts between the Danish Ministry of Transport and Danske Statsbaner (Case C 41/08 (ex NN 35/08));
2. Orders the European Commission to bear its own costs and to pay the costs incurred by Mr Jørgen Andersen, with the exception of those arising from the interventions;
3. Orders the Kingdom of Denmark to bear its own costs and to pay those incurred by Mr Andersen arising from its intervention;
4. Orders Danske Statsbaner (DSB) to bear its own costs and to pay those incurred by Mr Andersen arising from its intervention.