



Reports of Cases

Judgment of the General Court (Fifth Chamber) of 27 February 2013 — Nitrogénművek Vegyipari v Commission

(Case T-387/11)

(State aid — Banking sector — Loans guaranteed by Hungary and granted by a development bank — Decision declaring the aid measures partly incompatible and ordering their recovery — Private investor test)

1. *State aid — Concept — Assessment according to the criterion of the private investor — Granting, by a public bank, of a credit guaranteed by the State — Account taken of impossibility of the beneficiary undertaking obtaining the same credit from other financial institutions without the guarantee by the State — No manifest error of assessment by the Commission (Art. 107(1) TFEU) (see paras 17-20, 28-55)*
2. *Judicial proceedings — Application initiating proceedings — Formal requirements — Brief summary of the pleas in law on which the application is based — Pleas in law not set out in the application — General reference to documents annexed to the application — Inadmissible (Rules of Procedure of the General Court, Art. 44(1)(c)) (see para. 21)*
3. *State aid — Commission decision finding aid to be incompatible with the common market — Obligation to state reasons — Scope — Account taken of the context and all the legal rules — No obligation to reply to all the arguments put forward during the administrative procedure (Arts 107(1) TFEU and 296 TFEU; Commission Notice 2004/C 244/02) (see paras 27, 101-105, 117)*
4. *State aid — Concept — Aid granted to a public undertaking — Undertaking controlled by the State — Imputability to the State of the aid measure — Exclusion — Whole of the evidence to be taken into consideration (Art. 107(1) TFEU) (see paras 59-67)*
5. *State aid — Examination by the Commission — Decision to open the formal investigation procedure under Article 108(2) TFEU — Decision capable of diverging from the final decision (Art. 108(2) TFEU) (see paras 76, 77, 97)*
6. *State aid — Effect on trade between Member States — Adverse effect on competition — Criteria for assessment (Art. 107(1) TFEU) (see paras 89-93)*

7. *State aid — Administrative procedure — Right of the persons concerned to be heard — Limits (Art. 108(2) TFEU) (see para. 118)*
8. *EU law — Principles — Protection of legitimate expectations — Decision of the Commission to open a formal procedure for investigating a State aid measure — Provisional assessment of the latter — No legitimate expectations (see para. 121)*
9. *State aid — Prohibition — Exceptions — Aid which may be considered compatible with the common market — Aid to remedy serious disturbance in the economy of a Member State — Assessment — Taking into account previous practice — Exclusion (Art. 107(3)(b) TFEU) (see para. 126)*
10. *Judicial proceedings — Measures of organisation of procedure — Request for production of documents — Obligations of the claimant (Rules of Procedure of the General Court, Art. 64(3)(d) and (4)) (see para. 130)*

Re:

APPLICATION for annulment of Commission Decision 2011/269/EU of 27 October 2010 on State aid C 14/09 (ex NN 17/09) granted by Hungary to Péti Nitrogénművek Zrt. (OJ 2011 L 118, p. 9).

Operative part

The Court:

1. Dismisses the action;
2. Orders Nitrogénművek Vegyipari Zrt. to pay the costs.