



## Reports of Cases

### Judgment of the General Court (Fourth Chamber) of 20 March 2013 — Rousse Industry v Commission

(Case T-489/11)

(State aid — Aid granted by Bulgaria in the form of a debt waiver — Decision declaring that aid incompatible with the internal market and ordering its recovery — New aid — Distortion of competition — Obligation to state reasons)

1. *State aid — Concept — Non-repayment of sums due to the State in accordance with the timetable agreed with the national authorities — No measures undertaken by the national authorities to recover the debt — Non-adoption of enforcement measures having the consequence of granting an economic advantage to the beneficiaries — Abstention constituting State aid — Assessment of the measure in accordance with the private investor test (Art. 107(1) TFEU) (see paras 29, 30, 36-40)*
2. *State aid — Commission decision — Assessment of the legality by reference to the information available at the time of adoption of the decision — Duty of diligence of the Member State granting the aid and of its beneficiary as to the communication of all relevant information during the administrative procedure (Art. 108(2) TFEU) (see para. 33)*
3. *State aid — Effect on trade between Member States — Adverse effect on competition — Criteria for assessment (Art. 107(1) TFEU) (see paras 49, 50)*
4. *State aid — Existing aid and new aid — Measure amending an existing aid scheme — Modification affecting the substance of the scheme — Classification of the scheme as new aid (Art. 108(1) TFEU; Council Regulation No 659/1999, Art. 1(c)) (see paras 53-55)*
5. *State aid — Provisions of the Treaty — Scope ratione temporis — Accession of Bulgaria to the European Union — Act of Accession — Application of provisions on State aid as from the date of accession and solely in regard to situations arising as from that date (Arts 107 TFEU and 108 TFEU; 2005 Act of Accession; Council Regulation No 659/1999, Art. 1(b), (i) and (c)) (see paras 66, 67)*
6. *State aid — Recovery of unlawful aid — Calculation of the amount of aid to be recovered — Difficulties encountered by the State — Duty of cooperation between the Commission and the Member State — Scope (Art. 4(3) TEU; Art. 108 TFEU; Council Regulation No 659/1999, Art. 14(1)) (see paras 77-79)*

## **Operative part**

APPLICATION for annulment in part of Commission Decision 2012/706/EU of 13 July 2011 on the State aid SA.28903 (C 12/2010) (ex N 389/2009) implemented by Bulgaria in favour of Rousse Industry (OJ 2012 L 320, p. 27).

## **Operative part**

The Court:

1. Dismisses the action;
2. Orders Rousse Industry AD to bear its own costs and those incurred by the European Commission, including those relating to the application for interim relief.