



## Reports of Cases

### Judgment of the Court (Second Chamber) of 28 February 2013 — *Ellinika Nafpigeia v Commission*

(Case C-246/12 P)

(Appeal — State aid — Shipbuilding — Decision declaring aid measures incompatible with the common market — Protection of the essential interests of national security — Competition conditions in the internal market)

1. *EU law — FEU Treaty — General and final provisions — Powers of the Member States to adopt measures intended to ensure national security — Production and trade in armaments — Specific procedural regime established by Article 348 TFEU — Distortion of competition caused by aid granted for non-military activities — Inapplicability (Arts 107 TFEU, 346(1)(b) TFEU and 348 TFEU) (see paras 16-22, 40-42)*
2. *Appeals — Grounds — Mistaken assessment of the facts — Inadmissibility — Review by the Court of the assessment of the facts and evidence — Possible only where the clear sense of the evidence has been distorted (Art. 256 TFEU; Statute of the Court of Justice, Art. 58, first para.) (see paras 28-29)*
3. *State aid — Administrative procedure — Obligation of the Commission to give notice to the interested parties to submit their comments — Exclusion of those parties from rights of defence (Art. 108(2) TFEU) (see paras 54, 55)*

#### Re:

Appeal against the judgment of the General Court (Seventh Chamber) of 15 March 2012 in Case T-391/08 *Ellinika Nafpigeia v Commission* dismissing an action for the partial annulment of Commission Decision C(2008) 3118 final of 2 July 2008 declaring incompatible with the common market aid granted by the Greek authorities in favour of Ellinika Nafpigeia (Hellenic Shipyards 'HSY'), in the context of amendments to the initial investment plan relating to the restructuring of that shipyard (State aid C 16/2004 (ex NN 29/2004, CP 71/2002 and CP 133/2005)).

**Operative part**

The Court:

1. Dismisses the appeal;
2. Orders Ellinika Nafpigia AE to pay the costs.