

Form of order sought

- Principal head of claim: annulment of Commission Decision of 20 April 2011 on the measures implemented by Denmark for TV2/Danmark (C 2/2003), in so far as it finds that the measures investigated constituted State aid within the meaning of Article 107(1) TFEU (recitals 101 and 153 and first paragraph of the Conclusion of the Decision).
- Alternative head of claim: annulment of Commission Decision of 20 April 2011 on the measures implemented by Denmark for TV2/Danmark (C 2/2003) in so far as it finds:
 - that the measures investigated constituted new aid which therefore had to be notified (recital 154 and first paragraph of the Conclusion of the Decision);
 - that the licensing fees which, in the years 1997-2002, were transferred to the regions via TV2, constituted State aid for TV2 (recital 194 of the Decision); and
 - that the advertising revenues which, in 1995 and 1996 and at the time of the winding-up of the TV2 Fund in 1997, were transferred from the TV2 Fund to TV2, constituted State aid for TV2 (recitals 90, 92, 193 and 195, with Table 1).

Pleas in law and main arguments

In support of the action, the applicant submits that the contested decision is contrary to Article 107(1) TFEU, Article 14 TFEU and the Amsterdam Protocol. The applicant submits:

- that the applicant did not receive State aid, in that the measures investigated did not favour TV2/Danmark within the meaning of Article 107 TFEU, but were merely compensation for the public services provided by TV2/Danmark. The applicant submits that the Commission did not apply the conditions in *Altmark* according to their intended spirit and purpose and found, incorrectly, that the second and fourth conditions in *Altmark* were not fulfilled.
- that the alleged aid to TV2/Danmark in the form of licensing fees and corporate tax exemptions was not new aid within the meaning of Regulation No 659/1999⁽¹⁾, since those arrangements preceded Denmark's accession to the EU;
- that the licensing fees which were transferred to the regions via TV2/Danmark from 1997 to 2002 cannot be categorised as State aid to TV2/Danmark, since TV2/Danmark was not the actual recipient of those funds; and

- that the funds which were transferred from TV2 Reklame A/S via the TV2 Fund to TV2/Danmark derived from the sale of advertising did not constitute State aid, since that was payment for TV2/Danmark's broadcasting of advertising on TV2/Danmark's broadcasting network.

⁽¹⁾ Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of [Article 108 TFEU] (OJ 1999 L 83, p. 1).

Action brought on 2 January 2012 — France v Commission

(Case T-1/12)

(2012/C 80/35)

Language of the case: French

Parties

Applicant: French Republic (represented by: E. Belliard, G. de Bergues and J. Gstalter, agents)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul the contested decision in its entirety;
- order the Commission to pay the costs.

Pleas in law and main arguments

The applicant seeks the annulment of Decision C(2011) 7808 final of 24 October 2011, by which the Commission declared incompatible with the common market the restructuring aids which the French authorities proposed to grant to SeaFrance SA in the form of an increase in capital and loans granted by SNCF to SeaFrance.

In support of the action, the applicant relies on four pleas in law.

1. First plea in law, alleging misinterpretation of the concept of aid within the meaning of Article 107 TFEU when the Commission found that the question whether the two loans proposed by SNCF were reasonable had to be considered together with the rescue and restructuring aid. This plea is divided into two branches based:

- first, on the fact that the Commission incorrectly interpreted the Court's judgment in Case T-11/95 *BP Chemicals v Commission* [1998] ECR II-3235; and

- second, in the alternative, on the fact that the Commission incorrectly applied that judgment of the Court.
2. Second plea in law, alleging misinterpretation of the concept of State aid within the meaning of Article 107 TFEU when the Commission found, for the sake of completeness, that the French authorities have not proved that, considered in isolation, the two loans proposed by SNCF would have been granted at a market rate. That plea is divided into two branches based on:
 - first, the fact that the Commission incorrectly excluded the two loans at issue from the application of the Commission Communication of 19 January 2008 on the revision of the method for setting the reference and discount rates; ⁽¹⁾ and
 - second, the fact that the Commission incorrectly found that, to be compatible with the market, the rate of the loans in question should have been around 14 %.
 3. Third plea in law, alleging errors of law and of fact when the Commission found that the restructuring aid is incompatible with Article 107(3)(c) TFEU, interpreted in the light of the guidelines on State aid for rescuing and restructuring.
 4. Fourth plea in law, alleging infringement of Article 345 TFEU which provides that the Treaties are not in any way to prejudice the rules in Member States governing the system of property ownership.

⁽¹⁾ OJ 2008 C 14, p. 6.

Action brought on 9 January 2012 — Interbev v European Commission

(Case T-18/12)

(2012/C 80/36)

Language of the case: French

Parties

Applicant: Association Nationale Interprofessionnelle du Bétail et des Viandes (Interbev) (Paris, France) (represented by: P. Morrier and A. Bouviala, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul the European Commission's decision of 13 July 2011, State aid SA. 14974 (C 46/2003) — France — concerning the levies for INTERBEV, C(2011) 4923 final, not yet published in the *Official Journal of the European Union*, in so far as it classifies as State aid the measures adopted by INTERBEV between 1996 and 2004 concerning publicity, promotion, technical assistance and research and development, on the one hand, and the extended voluntary levies which finance that action as State resources forming an integral part of the abovementioned State aid measures, on the other hand;
- in the alternative, annul the European Commission's decision of 13 July 2011, State aid SA. 14974 (C 46/2003) — France — concerning the levies for INTERBEV, C(2011) 4923 final, not yet published in the *Official Journal of the European Union*, in so far as it encourages the national courts to order repayment of the extended voluntary levies (contested decision, recitals 201 and 202);
- order the European Commission to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on four pleas in law.

1. First plea in law, alleging that the reasoning of the contested decision is insufficient in the light of Article 296 TFEU and with regard to the conditions concerning: (i) a selective economic advantage for operators in the cattle and sheep sectors; (ii) the State origin of the measures adopted by the applicant; (iii) the distortion of competition and the effect on trade between Member States; and (iv) the direct connection between the action taken by the applicant and the extended voluntary levies, also known as binding voluntary levies, charged between 1996 and 2004.
2. Second plea in law, alleging infringement of Article 107(1) TFEU, in so far as the measures adopted by the applicant between 1996 and 2004:

- cannot be imputed to the State and the extended voluntary levies which financed them do not constitute State resources and cannot in any way be imputed to the French State;
- do not constitute an economic advantage for one or more recipients;
- do not affect, even potentially, competition or trade between Member States.