

**Pleas in law and main arguments**

The applicant in the present proceedings is a company dedicated to research, innovation and industrial development in the field of aquaculture; it was created in 2004 for the implementation of an aquaculture project for the breeding and marketing of the *Cherax Quadricarinatus* shellfish (Australian freshwater lobster). That project was awarded the corresponding aid from the European Union in accordance with the provisions set out in Commission Regulation (EC) No 498/2007 of 26 March 2007 laying down detailed rules for the implementation of Council Regulation (EC) No 1198/2006 on the European Fisheries Fund (OJ 2007 L 120, p. 1).

In support of its action, the applicant relies on Article 340 of the Treaty on the Functioning of the European Union and, for consideration thereof, on Spanish law on administrative responsibility, as stated in Article 106 of the Constitution and Articles 139 and following of Ley 30/92, de 26 de noviembre, de Régimen Jurídico de las Administraciones Públicas y del Procedimiento Administrativo Común (Law 30/92 of 26 November on the legal rules governing public authorities and the common administrative procedure).

In that regard, the applicant states that:

- The aid received had been allocated to works in the aquaculture industry, since neither the implementation of the project carried out with that aid or the investments made had ever met any obstacles.
- Once the project was in the final stages of implementation, the company received notification from Australia that it was not possible to import the relevant species to the European Union as a result of the provisions of Commission Regulation (EC) No 1251/2008 of 12 December 2008 implementing Council Directive 2006/88/EC as regards conditions and certification requirements for the placing on the market and the import into the Community of aquaculture animals and products thereof and laying down a list of vector species (OJ 2008 L 337, p. 41).
- As a result, the company has suffered various forms of injury, as made clear in the evidence adduced, amounting to a total of EUR five million.

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**Action brought on 6 September 2016 — Wabco Europe v Commission****(Case T-637/16)**

(2016/C 419/64)

*Language of the case: English***Parties**

*Applicant:* Wabco Europe (Brussels, Belgium) (represented by: E. Righini and S. Völcker, lawyers)

*Defendant:* European Commission

**Form of order sought**

The applicant claims that the Court should:

- declare the application for annulment admissible;
- annul, in whole or in part, the decision <sup>(1)</sup>; and
- order the Commission to pay the costs.

**Pleas in law and main arguments**

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

1. First plea in law, alleging that the decision must be annulled because it is vitiated by errors in law and in fact in identifying the alleged State aid measure and categorising it as an aid scheme;

2. Second plea in law, alleging that the decision must be annulled because the Commission has erred in law and in fact in considering the measure selective under Article 107 TFEU;
3. Third plea in law, alleging that the decision must be annulled because the Commission has erred in law and in fact in considering that the measure grants the applicant an advantage under Article 107 TFEU;
4. Fourth plea in law, alleging that the decision must be annulled because the Commission's inadequate and contradictory statement of reasons infringes Article 296 TFEU;
5. Fifth plea in law, alleging that the decision must be annulled because the Commission has breached the principle of good administration in failing to assess carefully and impartially all the elements of the case;
6. Sixth plea in law, alleging that the decision must be annulled because the Commission has misused of its power in establishing its own arm's length principle through a State aid decision.

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<sup>(1)</sup> Commission's Decision C(2015) 9837 final of 11 January 2016 in State aid case SA.37667 — *Excess Profit exemption in Belgium* (the 'decision')

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**Appeal brought on 7 September 2016 by FV against the judgment of the Civil Service Tribunal of  
28 June 2016 in Case F-40/15, FV v Council**

**(Case T-639/16 P)**

(2016/C 419/65)

*Language of the case: French*

**Parties**

*Appellant:* FV (Rhode-St-Genèse, Belgium) (represented by L. Levi, lawyer)

*Other party to the proceedings:* Council of the European Union

**Form of order sought by the appellant**

- Set aside the judgment of the European Union Civil Service Tribunal of 28 June 2016 in Case F-40/15;
- Consequently, uphold the claims of the appellant at first instance and, accordingly:
  - annul the staff report drawn up on the appellant for 2013;
  - order the Council of the European Union to pay the costs;
- Order the other party to the proceedings to pay all the costs of both instances.

**Pleas in law and main arguments**

In support of the appeal, the appellant relies on three grounds of appeal.

1. First ground of appeal, alleging that the judgment under appeal was delivered by a formation of the Tribunal composed in infringement of Article 27(3) of the Rules of Procedure of the CST.

The appellant is of the view that that infringement is characterised by the fact that Council Decision 2016/454 appointing three Judges to the European Union Civil Service Tribunal is itself vitiated by a lack of jurisdiction, an infringement of Articles 257 TFEU and 281 TFEU, an infringement of Annex I to Protocol No 3 to the Statute of the Court of Justice, an infringement of Article 13(2) TEU and an infringement of Council Decision 2005/150/EC of 18 January 2005 concerning the conditions and arrangements governing the submission and processing of applications for appointment as a judge of the European Union Civil Service Tribunal.