



## Reports of Cases

### Order of the Court (Seventh Chamber) of 7 December 2017 — Ireland v Commission

(Case C-369/16 P)<sup>1</sup>

(Appeal — State aid — Article 181 of the Rules of Procedure of the Court of Justice — Exemption from excise duty on mineral oils used as fuel for alumina production — Existing or new aid — Regulation (EC) No 659/1999 — Article 1(b)(i) and (iv), and (d) — Limitation — Article 15 — Principle of legal certainty — Principle of the protection of legitimate expectations)

1. *State aid — Existing aid and new aid — Definition — Aid scheduled before the date of accession of the Member State concerned but implemented after that date — Classification as existing aid — No such classification*

(Council Regulation No 659/1999, Art. 1(b)(i))

(see paras 28-30)

2. *Appeal — Grounds — Appeal brought against a judgment ruling on joined cases — Whether possible for any party to raise a plea against any ground of the General Court which adversely affects it, irrespective of the pleas put forward by that party before the General Court*

(Art. 256 TFEU; Statute of the Court of Justice, Art. 58, first para.)

(see para. 36)

3. *State aid — Recovery of unlawful aid — Ten-year limitation period laid down in Article 15 of Regulation No 659/1999 — Point from which the limitation period starts to run — Date on which aid is granted to the beneficiary*

(Art. 88(2) EC; Council Regulation No 659/1999, Art. 15)

(see paras 40, 41)

4. *Judicial proceedings — Intervention — Pleas different from those of the main party supported — Admissibility — Condition — Connection with the subject matter of the case*

(Statute of the Court of Justice, Art. 40)

<sup>1</sup> OJ C 371, 10.10.2016.

*(see paras 50, 51)*

5. *Appeal — Grounds — Challenge to the contested decision before the General Court and not the judgment it delivered — Inadmissibility*

*(Statute of the Court of Justice, Art. 56, first para.)*

*(see para. 52)*

6. *State aid — Recovery of unlawful aid — Aid granted in infringement of the rules of procedure in Article 88 EC — Legitimate expectations entertained by the recipients — Conditions and limits — Legitimate expectation ending as from publication of the decision to open the formal investigation procedure — Exceptional circumstances such as to give rise to legitimate expectations — Unreasonable period in the conduct of the formal investigation procedure — Weighing up the imperatives of legal certainty and the public requirements relating to the recovery of the aid granted unlawfully*

*(Art. 88 EC; Council Regulation No 659/1999)*

*(see paras 53-58, 60)*

7. *Appeal — Grounds — Mistaken assessment of the facts — Inadmissibility — Review by the Court of Justice of the assessment of the facts put before the General Court — 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 para. 59)*

## **Operative part**

The Court:

1. Dismisses the appeal;
2. Orders Ireland to pay the costs;
3. Orders the French Republic to bear its own costs.