



Reports of Cases

Judgment of the Court (Sixth Chamber) of 1 March 2012 — *Commission v Greece*

(Case C-354/10)

(Failure to fulfil obligations — State aid — Tax-exempt reserve fund — Incompatibility with the common market — Recovery — Failure to execute)

1. *Procedure — Rules on languages — Production of procedural documents in a language other than that of the case — Conditions for admissibility (Rules of Procedure of the Court of Justice, Art. 29(2)(a)(3) (see paras 33, 34)*
2. *State aid — Recovery of unlawful aid — Obligation — Duty to execute, immediately and effectively, the Commission's decision (Arts 108(2) TFEU and 288 TFEU; Council Regulation 659/1999, Art. 14(3)) (see paras 56-61, 65)*
3. *Actions for failure to fulfil obligations — Failure to comply with a Commission decision concerning State aid — Defences — Absolute impossibility of implementation — Criteria for assessment — Difficulties in implementing — Duty of the Commission and the Member State to work together in seeking a solution consistent with the Treaty (Arts 4(3) TFEU and 108(2) TFEU) (see paras 68-70, 73)*
4. *State aid — Recovery of unlawful aid — Application of national law — Conditions — Putting in hand a procedure ensuring immediate, effective execution of the Commission's decision (Arts 108(2) TFEU and 288 TFEU; Council Regulation No 659/1999, Art. 14(3) (see paras 75, 77)*

Re:

Failure of a Member State to fulfil obligations — Failure to take, within the period prescribed, the measures necessary for recovery of the aid found to be unlawful and incompatible with the internal market by Article 1(1) (excepting the aid referred to in Article 1(2) and Articles 2 and 3) of the Commission decision of 18 July 2007 (C(2007) 3251) concerning the tax-exempt reserve fund (State aid C 37/05).

Operative part

The Court:

1. Declares that, by failing to adopt, within the period prescribed, all the measures necessary for recovery, in accordance with Article 1(1) of Commission Decision 2008/723/EC of 18 July 2007 on State aid C 37/05 (ex NN 11/04) implemented by Greece — tax-exempt reserve fund, of the aid held unlawful and incompatible with the internal market, excepting the aid referred to in Article 1(2) and Articles 2 and 3 of that decision, the Hellenic Republic has failed to fulfil its obligations under Articles 4 to 6 of that decision;

2. Orders the Hellenic Republic to pay the costs.