

No 164/2007 and fixing the production levies in the sugar sector for marketing years 2002/2003, 2003/2004, 2004/2005, 2005/2006 (OJ 2009 L 321, p. 1).

Operative part

The Court:

1. Annuls Article 2 of Commission Regulation (EC) No 1686/2005 of 14 October 2005 setting the production levies and the coefficient for the additional levy in the sugar sector for the 2004/05 marketing year, as amended by Article 3 of Commission Regulation (EC) No 1193/2009 of 3 November 2009 correcting Regulations (EC) No 1762/2003, (EC) No 1775/2004, (EC) No 1686/2005, (EC) No 164/2007 and fixing the production levies in the sugar sector for marketing years 2002/2003, 2003/2004, 2004/2005, 2005/2006;
2. Orders the European Commission to pay the costs.

Judgment of the General Court (Fifth Chamber) of 29 September 2011 — Ryanair v Commission

(Case T-442/07)

(State aid — Aviation sector — Aid granted by the Italian authorities to Alitalia, Air One and Meridiana — Action for failure to act — Failure by the Commission to define its position — Obligation to act)

1. *Actions for failure to act — Institution called upon to act — Conditions — Clear and express request — Letter of formal notice addressed to the Commission listing and complaining of the existence of various aid measures incompatible with the common market — Admissibility (Arts 87 EC, 88(2) EC and 232 EC) (see paras 22-26, 41)*

2. *Actions for failure to act — Commission's duty to act — Obligation to examine information concerning allegedly unlawful aid — Obligation either to inform the party concerned where the grounds are insufficient, or to adopt a decision at the conclusion of the preliminary phase of the investigation — Failure to act (Art. 232 EC; Council Regulation No 659/1999, Arts 4, 10(1) and 20(2)) (see paras 28-30, 37-38, 50-52, 67-68)*

3. *State aid — Examination of complaints — Obligations of the Commission — Obligation to examine information concerning allegedly unlawful aid — No formal requirements for lodging a complaint (Arts 87 EC and 88 EC; Council Regulation No 659/1999, Art. 10(1)) (see paras 32-34)*

4. *Actions for failure to act — Commission's duty to act — Obligation to examine information concerning allegedly unlawful aid — Conditions — Existence of a complaint — Allegedly unlawful character of the aid measures in question having to be apparent from the information supplied by the party concerned (Art. 232 EC; Council Regulation No 659/1999, Art. 10(1)) (see paras 45-47, 62-64, 74-76)*

Re:

APPLICATION for a declaration that the Commission failed to act in unlawfully failing to define its position on the applicant's complaints concerning, first, aid allegedly granted by the Italian Republic to Alitalia, Air One and Meridiana and, second, an alleged infringement of competition law.

Operative part

The Court:

1. Declares that the Commission of the European Communities failed to fulfil its obligations under the EC Treaty by failing to adopt a decision in respect of (i) the transfer of the 100 Alitalia employees, complained of in the letter of 16 June 2006 sent to the Commission by Ryanair Ltd, (ii) the compensation granted following the attacks of 11 September, complained of in the letters

of 3 November and 13 December 2005 sent to the Commission by Ryanair, and (iii) the reductions in airport charges at hub airports, from which Alitalia, in particular, is claimed to have benefited, complained of in those letters of 3 November and 13 December 2005;

2. Dismisses the action as to the remainder;
3. Orders each of the parties, including Air One SpA, to bear its own costs.

**Judgment of the General Court (Sixth Chamber) of 29 September 2011 —
adidas v OHIM — Patrick Holding (Representation of a
shoe with two stripes)**

(Case T-479/08)

(Community trade mark — Opposition proceedings — Application for a Community figurative mark representing a shoe with two stripes on the side — Earlier national trade mark representing a shoe with three stripes on the side — Relative ground for refusal — Failure to substantiate the earlier right — Failure to translate elements essential to substantiating the registration of the earlier trade mark — Rule 16(3), Rule 17(2) and Rule 20(2) of Regulation (EC) No 2868/95)

Community trade mark — Observations of third parties and opposition — Examination of the opposition — Failure, within the prescribed period, to produce the translation of the certificate of registration of the earlier national mark — Impact on the procedure before the Opposition Division (Commission Regulation No 2868/95, Art. 1, Rule 17(2)) (see paras 32-33)