



Reports of Cases

Judgment of the General Court (Second Chamber) of 18 January 2012 – Djebel – SGPS v Commission

(Case T-422/07)

(State aid — Aid scheme designed to promote modern and competitive entrepreneurial strategies — Planned aid for a commercial company in the form of a soft loan in order to help finance an investment by that company in Brazil — Decision declaring aid to be incompatible with the common market — Duty to state reasons — Impairment of competition — Effect on trade between Member States — Equal treatment)

1. *Actions for annulment — Jurisdiction of the EU judicature — Claim seeking that directions be issued to an institution — Claim for a declaratory judgment — Inadmissibility (Art. 230 EC) (see para. 50)*
2. *State aid — Commission decision finding aid to be incompatible with the common market — Duty to state reasons — Scope — Decision in line with previous decisions — Summary reasoning — Decision going well beyond previous decisions — Express reasoning (Arts 87(1) EC and 253 EC) (see paras 52-54, 57-58, 70)*
3. *State aid — Effect on trade between Member States — Adverse effect on competition — Criteria for assessment — Small size and limited extent of aid not a priori excluding the possibility of trade being affected (Art. 87(1) EC) (see paras 81-85, 88-90, 97, 100)*
4. *State aid — Prohibition — Exceptions — Discretion of the Commission — Judicial review (Art. 87(3) EC) (see paras 107-108)*
5. *State aid — Prohibition — Exceptions — Aid eligible for the derogation laid down in Article 87(3)(c) EC — Aid not needed or having an incentive effect — Exclusion (Art. 87(3)(c) EC) (see paras 118-124)*
6. *State aid — General aid scheme approved by the Commission — Approval subject to a reservation requiring individual notification of certain aids — Examination of such a notified aid having regard only to the rules of the Treaty (see paras 144, 147-149)*
7. *State aid — Concept — Assessment according to the criterion of the private investor — Capital contribution (Art. 87(1) EC) (see paras 157-158)*

8. *State aid — Commission decision — Assessment of legality by reference to the information available at the time of adoption of the decision — Foreseeable development of competition to be taken into account (Art. 87(1) EC) (see paras 168-170)*
9. *State aid — Administrative procedure — Obligations of the Commission — Duty to act within a reasonable time — Criteria for assessment — Infringement — Consequences — Annulment of the decision where defence rights infringed (Art. 88(2) EC) (see paras 174-176)*
10. *Union law — Principles — Protection of legitimate expectations — Possibility of the Commission taking account of the development of the common market in relation to a previous decision — No breach of the principle of equal treatment (see paras 199-200, 202-203)*

Re:

ACTION for annulment of Commission Decision 2007/582/EC of 10 May 2007 on State aid C 4/2006 (ex N 180/2005) – Portugal – Aid to Djebel (OJ 2007 L 219, p. 30).

Operative part

The Court

1. Dismisses the action;
2. Orders Djebel – SGPS, SA to bear its own costs and to pay those of the European Commission.