

order the Commission to pay the costs.

*Pleas in law and main arguments*

By this application the company Adriatica di Navigazione S.p.A. challenges, pursuant to the fourth paragraph of Article 230 of the EC Treaty, the decision of the European Commission of 16 March C(2004) 470 concerning State aid granted by Italy to the shipping companies Adriatica, Caremar, Siremar, Saremar and Toremar. In particular, the applicant asks the Court of First Instance to annul the decision under challenge inasmuch as it considers the subsidies in respect of public-service obligations made to Adriatica to be aid for the purposes of Article 87 of the Treaty, and classifies those measures as new aid.

In support of its action, the applicant puts forward three grounds of challenge.

By the first, the applicant alleges that the Commission made a twofold error of assessment. First, in its view, the Commission's decision is vitiated because the Commission wrongly classified the subsidies granted by the Italian State to the shipping companies of the Gruppo Tirrenia to offset the costs of their public-service obligations (P-S.Os) as aid for the purposes of Article 87 EC. As a result of this mistaken classification the decision under challenge infringes (a) the sphere of discretion possessed by the authorities of the Member States in connection with the identifying and funding of P-S.Os, and (b) Article 4(3) of Regulation 3577/92<sup>(1)</sup>. In the second place, Adriatica maintains that in any case the Commission fell into an error of assessment in classifying those subsidies as new aid. In this regard, the applicant points out first of all that the Commission failed to take into consideration that the relevant legislation and the public-service Conventions of the regional companies of the Gruppo Tirrenia had been notified to the Commission and had been authorised by the latter either expressly or by implication.

By its second plea, the applicant challenges the errors of assessment that it claims the Commission made in its contested decision in finding that the scheme of subsidies for Adriatica between 1992 and 1994 was incompatible [with the common market] because Adriatica was responsible for anti-competitive conduct prohibited by Article 81 EC. On this point, the applicant notes that that assessment is incorrect since the Commission ought first of all to have ascertained whether there was any causal connection between the particular case which constitutes contravention of competition and the case of the aid measures, and to have recognised that there was, in the circumstances, no such causal connection. In addition, the applicant stresses that, for the purposes of ascertaining whether there existed such a connection, the mere coincidence of the subject-matter of the contravention of competition and the abovementioned subsidies was quite irrelevant. Here, the applicant also alleges breach of the obligation to give reasons laid down in Article 253 EC.

Finally, the applicant's third plea in law claims that the decision under challenge is unlawful inasmuch as it orders that the aid given to Adriatica for the period from January 1992 to July 1994 should be recovered, contrary to the general principles of the protection of legitimate expectations and of the proportionality of administrative action.

<sup>(1)</sup> Council Regulation (EEC) No 3577/92 of 7 December 1992 applying the principle of freedom to provide services to maritime transport within Member States (maritime cabotage) (OJ 1992 L 364, p. 7).

**Removal from the Register of Case T-14/00<sup>(1)</sup>**

(2004/C 239/58)

*(Language of the case: Dutch)*

By order of 4 May 2004 the President of the Second Chamber (Extended Composition) of the Court of First Instance of the European Communities has ordered the removal from the Register of Case T-14/00, C.A.V. Ulestraten-Schimmert-Hulsberg and Others, supported by the Kingdom of the Netherlands v Commission of the European Communities.

<sup>(1)</sup> OJ C 135, 13.5.2000.

**Removal from the Register of Case T-236/99<sup>(1)</sup>**

(2004/C 239/59)

*(Language of the case: Dutch)*

By order of 4 May 2004, the President of the Second Chamber (Extended Composition) of the Court of First Instance of the European Communities has ordered the removal from the Register of Case T-236/99, Direcks Service Station Bocholtz B.V., supported by the Kingdom of the Netherlands v Commission of the European Communities.

<sup>(1)</sup> OJ C 47, 19.2.2000.