

**Appeal brought on 22 November 2012 by the Société nationale maritime Corse-Méditerranée (SNCM) SA against the judgment delivered by the General Court (Fourth Chamber) on 11 September 2012 in Case T-565/08 Corsica Ferries France SAS v European Commission**

(Case C-533/12 P)

(2013/C 32/09)

*Language of the case: French*

**Parties**

*Appellant:* Société nationale maritime Corse-Méditerranée (SNCM) SA (represented by: A. Winckler and F.-C. Laprèvote, lawyers)

*Other parties to the proceedings:* Corsica Ferries France SAS, European Commission, French Republic

**Form of order sought**

The appellant claims that the Court should:

— annul in part the judgment delivered by the General Court on 11 September 2012 in Case T-565/08 *Corsica Ferries France SAS v European Commission* in so far as it annuls the second and third paragraphs of Article 1 of Commission Decision 2009/611/EC of 8 July 2008 concerning the measures C-58/02 (ex N 118/02) which France has implemented in favour of the Société Nationale Maritime Corse-Méditerranée (SNCM) <sup>(1)</sup> on the grounds (i) that the Commission has committed an error in law and manifest errors of assessment so far as concerns its analyses of the negative sale price of EUR 158 million, of the capital contribution in conjunction and simultaneous with CGMF for an amount of EUR 8,75 million and aid to individuals for an amount of EUR 38,5 million; and (ii) that the analysis, by the Commission, of the balance for restructuring, for a final amount of EUR 15,81 million, was based on an incorrect premiss;

— order Corsica Ferries to pay the costs.

**Pleas in law and main arguments**

The appellant raises four grounds of appeal seeking that the judgment of the General Court be set aside in part.

Firstly, in respect of the sale at a negative price, the appellant submits that the General Court has not only failed to have regard to the Commission's discretion for the purposes of the application of the test of the private investor in a market economy, but has also committed an error of law as regards the interpretation of that test. The General Court distorted the Commission's decision and failed to fulfil its obligation to state reasons in adopting an interpretation of the test of the private investor in a market economy which was contrary to Article 345 TFEU.

Secondly, in respect of the capital contribution, the appellant criticises the General Court for having distorted the Commission's decision, in holding that that decision did not take into account all the relevant factors in its assessment of the comparable nature of the investment conditions of the private capital contributions made simultaneously.

Thirdly, in respect of measures involving aid to individuals, the General Court not only distorted the Commission's decision, but it also committed an error of law and failed to fulfil its obligation to state reasons as regards the advantage from which it held the SNCM benefited.

Fourthly, having regard to the foregoing, the General Court's reasoning relating to the balance for restructuring, calculated at EUR 15,81, is misplaced.

<sup>(1)</sup> OJ 2009 L 225, p. 180

**Appeal brought on 26 November 2012 by the French Republic against the judgment of the General Court (Fourth Chamber) delivered on 11 September 2012 in Case T-565/08 Corsica Ferries France SAS v European Commission**

(Case C-536/12 P)

(2013/C 32/10)

*Language of the case: French*

**Parties**

*Appellant:* French Republic (represented by: G. de Bergues, D. Colas, N. Rouam and J. Rossi, Agents)

*Other parties to the proceedings:* Corsica Ferries France SAS, European Commission, Société nationale maritime Corse-Méditerranée (SNCM) SA

**Form of order sought**

The appellant claims that the Court should:

— set aside the judgment delivered by the Fourth Chamber of the General Court on 11 September 2012 in Case T-565/08 *Corsica Ferries France v European Commission*, in so far as it annulled the second and third paragraphs of Article 1 of Commission Decision 2009/611/EC of 8 July 2008 concerning the measures C-58/02 (ex N 118/02) which France has implemented in favour of the Société Nationale Maritime Corse-Méditerranée (SNCM); <sup>(1)</sup>

— rule definitively on the dispute or refer the case back to the General Court;

— order the defendant to pay the costs.