

	<p>TRIBUNAL DE PRIMERA INSTANCIA DE LAS COMUNIDADES EUROPEAS Soud prvniho stupně Evropských společenství DE EUROPÆISKE FÆLLESSKABERS RET I FØRSTE INSTANS GERICHT ERSTER INSTANZ DER EUROPÄISCHEN GEMEINSCHAFTEN EUROOPA ÜHENDUSTE ESIMESE ASTME KOHUS ΠΡΩΤΟΔΙΚΕΙΟ ΤΩΝ ΕΥΡΩΠΑΪΚΩΝ ΚΟΙΝΟΤΗΤΩΝ COURT OF FIRST INSTANCE OF THE EUROPEAN COMMUNITIES TRIBUNAL DE PREMIÈRE INSTANCE DES COMMUNAUTÉS EUROPÉENNES CÚIRT CHÉADCHÉIME NA GCOMHPHOBAL EORPACH TRIBUNALE DI PRIMO GRADO DELLE COMUNITÀ EUROPEE EIROPAS KOPIENU PIRMĀS INSTANCES TIESA</p>	<p>EUROPOS BENDRIJŲ PIRMOSIOS INSTANCIJOS TEISMAS EURÓPAI KÖZÖSSÉGEK ELŐFOKÚ BÍRÓSÁGA IL-QORT TAL-PRIMIĠANZA TAL-KOMUNITAJIET EWROPEJ GERECHT VAN EERSTE AANLEG VAN DE EUROPESE GEMEENSCHAPPEN SĄD PIERWSZEJ INSTANCIJ WSPÓLNOT EUROPEJSKICH TRIBUNAL DE PRIMEIRA INSTÂNCIA DAS COMUNIDADES EUROPEIAS SÚD PRVÉHO STUPŇA EURÓPSKYCH SPOLOČENSTEV SODIŠČE PRVE STOPNJE EVROPSKIH SKUPNOSTI EUROOPAN YHTEISÖJEN ENSIMMÄISEN OIKEUSASTEEN TUOMIOISTUIN EUROPEISKA GEMENSKAPERNAS FÖRSTAINSTANSRÄTT</p>
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Press and Information

PRESS RELEASE No° 98/06

12 December 2006

Judgment of the Court of First Instance in Case T-95/03

Asociación de Empresarios de Estaciones de Servicio de la Comunidad Autónoma de Madrid, Federación Catalana de Estaciones de Servicio v Commission of the European Communities

THE COURT OF FIRST INSTANCE CONFIRMS THE COMMISSION'S DECISION DECLARING THAT SPANISH LEGISLATION ON THE OPENING OF SERVICE STATIONS BY HYPERMARKETS DOES NOT CONSTITUTE STATE AID

The applicants did not succeed in establishing that that legislation exempts hypermarket owners from an obligation to transfer to the State, and therefore that it entails a direct or indirect transfer of public resources

In June 2000 the Spanish Government adopted legislation with the objective of promoting competition in the Spanish markets for goods and services, in particular in the market for the retail supply of petroleum products.

The applicants, which group together service station operators of the autonomous communities of Madrid and Catalonia, lodged a complaint with the Commission alleging that the Spanish legislation led to the granting of State aid, which is incompatible with the common market, in favour of hypermarket owners. According to the complainants, the contested measure enabled hypermarkets to open service stations without respecting the obligations imposed on other operators.

The Commission adopted a decision in that regard finding that there was no State aid¹. The Commission found that the Spanish legislation did not lead to any loss of public resources or a waiver of the levy of such resources and, therefore, that it was a State decision of a regulatory nature which does not entail any direct or indirect transfer of State resources. For that reason, it did not constitute State aid incompatible with the common market.

The applicants brought an action for annulment before the Court of First Instance.

The Court of First Instance points out that the purpose of the Spanish legislation is to facilitate the entry of hypermarkets into the market for the retail supply of petroleum products by removing certain restrictions in relation to town-planning and by simplifying the

¹ Commission Decision C(2002) 4355 final of 13 November 2002 concerning Spanish legislation on the opening of service stations by hypermarkets.

administrative procedures linked to the construction of a service station. However, the applicants have not established that, by means of those measures, hypermarket owners were exempted from any obligation whatsoever to make a transfer to the State, either as laid down in the relevant Spanish legislation or as resulting from a general administrative practice of the local authorities. **Therefore, the Commission did not commit a manifest error in considering that the legislation did not entail a direct or indirect transfer of public resources and that, consequently, it could not be regarded as State aid.**

The Court also rejects the applicants' claims in relation, first, to the alleged manifest errors of assessment made by the Commission in its interpretation of the concept of State aid, and, second, to the alleged insufficient statement of reasons in the contested decision.

However, the Court upholds the applicants' argument relating to the infringement by the Commission of its obligation to conduct a diligent investigation of the complaints submitted to it. In that regard, the Court considers that neither the amount of documentation submitted by the applicants to the Commission nor the other facts in the case justify the duration of the initial investigation conducted by the Commission, which lasted for almost 28 months. Nevertheless, in the absence of other factors, the existence of which has not been established by the applicants, the mere adoption of a decision after the expiry of a reasonable period is not in itself sufficient to render unlawful a decision taken by the Commission.

Accordingly, the Court dismisses the action and orders the Commission to pay a quarter of the costs incurred by the main parties.

REMINDER: An appeal, limited to points of law only, may be brought before the Court of Justice of the European Communities against a decision of the Court of First Instance, within two months of its notification.

Unofficial document for media use, not binding on the Court of First Instance.

Languages available: ES, CS, DE, EN, FR, HU, PL, SK, SL

*The full text of the judgment may be found on the Court's internet site
<http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=EN&Submit=rechercher&numaff=T-95/03>*

It can usually be consulted after midday (CET) on the day judgment is delivered.

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