

JUDGMENT OF THE COURT OF FIRST INSTANCE
(Second Chamber, Extended Composition)
27 April 1995 *

In Case T-443/93,

Casillo Grani SNC, a company incorporated according to Italian law established in San Giuseppe Vesuviano, Italy, represented by Mario Siragusa, Maurizio D'Albora and Giuseppe Scassellati-Sforzolini, respectively of the Bars of Rome, Naples and Bologna, with an address for service in Luxembourg at the Chambers of Ernest Arendt, 8-10 Rue Mathias Hardt,

applicant,

v

Commission of the European Communities, represented by Michel Nolin, Daniel Calleja and Richard Lyal, of the Legal Service, acting as Agents, with an address for service in Luxembourg at the office of Georgios Kremlis, of its Legal Service, Wagner Centre, Kirchberg,

defendant,

supported by

* Language of the case: Italian.

Italgrani SpA, a company incorporated according to Italian law established in Naples, Italy, represented by Aurelio Pappalardo, of the Trapani Bar, Luigi Sico and Felice Casucci, of the Naples Bar, Massimo Annesi and Massimo Merola, of the Rome Bar with an address for service in Luxembourg at the Chambers of Alain Lorang, 51 Rue Albert 1^{er},

intervener,

APPLICATION for the annulment of Commission Decision No 91/474/EEC of 16 August 1991 concerning aids granted by the Italian Government to Italgrani SpA for the setting up of an agri-foodstuffs complex in the Mezzogiorno (OJ 1991 L 254, p. 14),

THE COURT OF FIRST INSTANCE
OF THE EUROPEAN COMMUNITIES
(Second Chamber, Extended Composition),

composed of: B. Vesterdorf, President, D. P. M. Barrington, A. Saggio, H. Kirschner and A. Kalogeropoulos, Judges,

Registrar: J. Palacio González, Administrator,

having regard to the written procedure and further to the hearing on 9 November 1994

gives the following

Judgment

- 1 By application lodged at the Court Registry on 2 December 1991 the applicant, Casillo Grani snc, brought proceedings under Article 173 of the Treaty for the annulment of Commission Decision 91/474/EEC of 16 August 1991 concerning aids granted by the Italian Government to Italgrani SpA for the setting up of an agri-foodstuffs complex in the Mezzogiorno (OJ 1991 L 254, p. 14).
- 2 By order of the President of the Court of 8 February 1993, Italgrani SpA was given leave to intervene in support of the form of order sought by the Commission.
- 3 In pursuance of Article 4 of Council Decision 93/350/ECSC, EEC, Euratom of 8 June 1993 amending Decision 88/591/ECSC, EEC, Euratom establishing a Court of First Instance of the European Communities (OJ 1993 L 144, p. 21), the case was transferred to the Court of First of Instance by order of the Court of 27 September 1993. The case was assigned to the Second Chamber (Extended Composition).
- 4 By order of the President of the Second Chamber (extended composition) of the Court of First Instance of 28 September 1994 the case was joined for the purposes of the oral procedure with cases T-435/93 *ASPEC and Others v Commission* and T-442/93 *AAC and Others v Commission*.
- 5 After the case had been set down for hearing, one of Casillo Grani's lawyers informed the Court of First Instance in a letter received at the Registry of the Court of First Instance on 3 October 1994 that that company had been declared bankrupt. Subsequently, the lawyer let it be known by telephone that the company would not be represented at the hearing on 9 November 1994 and that he had asked the liquidator of the company for authorization to continue the proceedings.

6 By a facsimile received at the Registry of the Court of First Instance on 2 November 1994 the same lawyer acting for the applicant forwarded a copy of a decision of the court supervising the liquidation enjoining the company's liquidator to choose as its address for service in connection with the proceedings before the Court of First Instance the Chambers of Messrs Siragusa and Scassellati-Sforzolini. The applicant was not represented at the hearing on 9 November 1994.

7 In those circumstances it should be pointed out that that it is apparent from the file that the interest in bringing the proceedings relied upon by the applicant was constituted by its allegation that it was in competition with the company in receipt of the aids referred to in the contested decision. However, following the declaration that the applicant company is in liquidation, any interest in bringing the proceedings, to the extent to which there was such interest, has disappeared.

8 It should be added that, according to information provided at the hearing by the intervener, Italgrani, since the aids in question had not yet been paid to it, the decision could not have affected the competitive situation of the applicant company before it was declared to be in liquidation.

9 It follows that there is no longer any need to give a decision in this case, and it must be removed from the register.

Costs

10 Under Article 87(6) of the Rules of Procedure, where a case does not proceed to judgment, the costs are in the discretion of the Court of First Instance. In the circumstances of the case, the Court of First Instance considers that the applicant should be ordered to pay the costs including those incurred by the intervener.

On those grounds,

THE COURT OF FIRST INSTANCE (Second Chamber, Extended Composition)

hereby:

1. Orders Case T-443/93 to be removed from the Register;
2. Orders the applicant to bear the costs including those incurred by the interveners.

Vesterdorf

Barrington

Saggio

Kirschner

Kalogeropoulos

Delivered in open court in Luxembourg on 27 April 1995.

H. Jung

Registrar

B. Vesterdorf

President