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Press and Information

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Judgment of the Court of First Instance in Case T-146/03

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 ANNULS THE COMMISSION DECISION RELATING TO THE MEASURES ADOPTED IN 2002 BY SPAIN IN THE AGRICULTURAL SECTOR FOLLOWING THE INCREASE IN FUEL PRICES

The decision does not give sufficient reasons as regards the assessment that the measures concerned do not constitute State aid incompatible with the common market

The European Commission adopted a decision in 2002 relating to measures implemented by Spain in the agricultural sector following the increase in fuel prices¹. One of those measures authorised the cooperatives from that date on, and without affecting their status as specially protected cooperatives, to distribute a certain type of fuel to non-member third parties, without being subject to the limit of 50% of the total amount of the transactions with members and without having to set up a legal entity. The Commission took the view that those measures did not constitute State aid incompatible with the common market.

The applicants, who represent the proprietors of service-stations situated in the Autonomous Communities of Madrid and Catalonia, brought an action for annulment before the Court of First Instance. They claim, inter alia, that the tax arrangements applicable to the cooperatives is clearly advantageous as compared with the tax arrangements for other types of companies, and that the measures concerned are selective.

The Court of First Instance states, first of all, that the applicants are directly and individually concerned by the Commission's decision in accordance with the case-law on State aid. Therefore, they are entitled to bring an action for annulment.

¹ Decision 2003/239/EC (OJ 2003, L 111, p. 24).

Next, the Court holds that the Commission decision fails to state clearly and unequivocally the reasons why the tax arrangements applicable to agricultural cooperatives do not constitute an advantage for the purposes of State aid. First, the decision explicitly states that the cooperatives enjoy fiscal advantages not only as regards company tax, but also as regards economic activities tax and immovable property tax. Second, it states that the contested measures do not constitute an advantage and, therefore, are not State aid incompatible with the common market.

Finally, the Court observes that the Commission decision does not mention any factors explaining the reasoning followed in order to reach the conclusion that the contested measures are not selective because they are justified by the nature and structure of the system.

Accordingly, the Court finds that the Commission decision does not give sufficient reasons concerning the assessment that the measures concerned are not State aid incompatible with the common market. The Court has decided, therefore, to annul the Commission's decision.

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-T-146/03>

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

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