



Press and Information

General Court of the European Union

PRESS RELEASE No 77/19

Luxembourg, 19 June 2019

Judgments in Cases T-353/15
NeXovation, Inc. v European Commission
and T-373/15 Ja zum Nürburgring eV v European Commission

The General Court upholds the Commission's decision concerning State aid granted by Germany to the Nürburgring

The Nürburgring complex, located in the German Land of Rhineland-Palatinate, consists of a race track, a leisure park, hotels and restaurants. Between 2002 and 2012, the public undertakings in ownership of the Nürburgring (the sellers) were the beneficiaries, mainly from the Land of Rhineland-Palatinate, of support measures regarding the construction of a leisure park, hotels and restaurants as well as the organisation of Formula 1 races.

Those support measures were subject to a formal investigation procedure, initiated by the Commission in 2012. That same year, the Amtsgericht Bad Neuenahr-Ahrweiler (Local Court, Bad Neuenahr-Ahrweiler, Germany) made a finding that the sellers were insolvent and it was decided to proceed to the sale of their assets. On 15 May 2013, a tender process was launched for the purpose of that sale.

On 5 April 2011, Ja zum Nürburgring eV, a German motorsport association for the reinstatement and promotion of a race track at the Nürburgring, lodged a first complaint with the Commission concerning aid paid by Germany to the Nürburgring race track. On 23 December 2013, Ja zum Nürburgring eV lodged a second complaint with the Commission, on the ground that the tender process had not been transparent or non-discriminatory. According to Ja zum Nürburgring eV, the successful buyer would receive new aid and ensure the continuity of the sellers' economic activities, so that the decision on recovery of the aid received by the sellers ought to be extended to that buyer.

On 10 April 2014, NeXovation, a company established in the United States, filed a complaint with the Commission, on the ground that the tender process had not been open, transparent, non-discriminatory or unconditional and had not achieved a market price for the sale of the Nürburgring assets, since those assets had been transferred to a domestic tenderer, Capricorn Nürburgring Besitzgesellschaft GmbH (Capricorn), whose offer was lower than NeXovation's offer and which had been preferred in the tender process.

On 1 October 2014, the Commission adopted the decision on the State aid implemented by Germany for Nürburgring. By that decision, the Commission found that certain support measures in favour of the sellers were unlawful and incompatible with the internal market. It also decided that any potential recovery of the aid to the sellers would not concern Capricorn or its subsidiaries and that the sale of the Nürburgring assets to Capricorn did not constitute State aid. The Commission took the view that the tender process had been conducted in an open, transparent and non-discriminatory manner, that that process had resulted in a sale price consistent with the market and that there was no economic continuity between the sellers and the buyer.

NeXovation and Ja zum Nürburgring eV brought actions before the General Court against the Commission's decision. By their actions, they sought the annulment of the decision whereby the Commission, after finding that there was no economic continuity between the sellers and the buyer, decided that any potential recovery of the aid to the sellers would not concern the buyer.

They also sought the annulment of the decision whereby the Commission determined that the sale of the Nürburgring assets to Capricorn did not constitute State aid.

By today's judgment, the General Court holds that the actions must be dismissed as inadmissible in part and unfounded as to the remainder.

NOTE: An appeal, limited to points of law only, may be brought before the Court of Justice against the decision of the General Court within two months and ten days of notification of the decision.

NOTE: An action for annulment seeks the annulment of acts of the institutions of the European Union that are contrary to European Union law. The Member States, the European institutions and individuals may, under certain conditions, bring an action for annulment before the Court of Justice or the General Court. If the action is well founded, the act is annulled. The institution concerned must fill any legal vacuum created by the annulment of the act.

Unofficial document for media use, not binding on the General Court.

The full text of the judgments in Cases [T-353/15](#) & [T-373/15](#) are published on the CURIA website on the day of delivery.

Press contact: Jacques René Zammit ☎ (+352) 4303 3355

Pictures of the delivery of the judgment are available from "[Europe by Satellite](#)" ☎ (+32) 2 2964106