

**Judgment of the Court of First Instance (Fourth Chamber) of 26 January
2006 — Stadtwerke Schwäbisch Hall and Others v Commission**

(Case T-92/02)

State aid — Tax exemption scheme applied to the reserves established by nuclear installations established in Germany for the purpose of eliminating their radioactive waste and the definitive shutdown of their nuclear installations — Decision finding that there is no State aid at the end of the preliminary examination procedure —
Action for annulment

1. *State aid — Plans to grant aid — Examination by the Commission — Preliminary review and main review (Art. 88(2) and (3) EC) (see paras 46-56)*
2. *State aid — Definition — Selective nature of the measure (Art. 87(1) EC) (see paras 67-93, 96-102, 108-114)*

Re:

Annulment of Commission Decision C(2001) 3967 final of 11 December 2001 declaring that the German provisions relating to reserves set aside by the operators of nuclear power plants for the safe disposal of radioactive waste and the definitive shutdown of nuclear power plants do not constitute aid within the meaning of Article 87(1) EC.

Operative part

The Court:

1. Dismisses the action;
2. Orders the applicants, in addition to bearing their own costs, to pay those incurred by the Commission and by the interveners.