

Judgment of the Court (Sixth Chamber) of 21 December 2011 — ACEA SpA v Iride Spa, formerly AEM SpA, European Commission

(Case C-319/09 P) ⁽¹⁾

(Appeals — State aid — Aid granted to public utilities — Tax exemptions — Decision declaring the aid scheme incompatible with the common market — Action for annulment — Admissibility — Standing — Legal interest — Article 87 EC — Concept of ‘aid’ — Article 88 EC — Concept of ‘new aid’ — Regulation (EC) No 659/1999 — Articles 1 and 14 — Lawfulness of a recovery order — Duty to state reasons)

(2012/C 49/06)

Language of the case: Italian

Parties

Appellant: ACEA SpA (represented by: L. Radicati di Brozolo, A. Giardina and T. Ubaldi, avvocati)

Other parties to the proceedings: European Commission (represented by: E. Righini, V. Di Bucci and D. Grespan, Agents), Iride SpA, formerly AEM SpA (represented by: L. Radicati di Brozolo, M. Merola, T. Ubaldi and A. Santa Maria, avvocati)

Re:

Appeal brought against the judgment of the Court of First Instance (now the General Court) (Eighth Chamber, Extended Composition) of 11 June 2009 in Case T-297/02 *ACEA v Commission* by which the General Court dismissed the action brought for annulment of Articles 2 and 3 of Commission Decision 2003/193/EC of 5 June 2002 on State aid granted by Italy in the form of tax exemptions and subsidised loans to public utilities with a majority public capital holding (OJ 2003 L 77, p. 21).

Operative part of the judgment

The Court:

1. Dismisses the main appeal and the cross-appeal.
2. Orders ACEA SpA to pay the costs of the main appeal.
3. Orders the European Commission to pay the costs of the cross-appeal.
4. Orders Iride SpA to pay its own costs.

⁽¹⁾ OJ C 267, 7.11.2009.

Judgment of the Court (Sixth Chamber) of 21 December 2011 — A2A SpA, formerly AEM SpA v European Commission

(Case C-320/09 P) ⁽¹⁾

(Appeals — State aid — Aid granted to public utilities — Tax exemptions — Decision declaring the aid scheme incompatible with the common market — Action for annulment — Admissibility — Standing — Legal interest — Article 87 EC — Concept of ‘aid’ — Article 88 EC — Concept of ‘new aid’ — Article 10 EC — Duty of loyal cooperation — Regulation (EC) No 659/1999 — Articles 1 and 14 — Lawfulness of a recovery order — Principle of legal certainty — Duty to state reasons)

(2012/C 49/07)

Language of the case: Italian

Parties

Appellant: A2A SpA, formerly AEM SpA (represented by: A. Santa Maria, A. Giardina and G. Pizzonia, avvocati)

Other party to the proceedings: European Commission (represented by: E. Righini, V. Di Bucci and D. Grespan, Agents)

Re:

Appeal brought against the judgment of the Court of First Instance (now the General Court) (Eighth Chamber, Extended Composition) of 11 June 2009 in Case T-301/02 *AEM v Commission* by which the General Court dismissed the action brought for annulment of Articles 2 and 3 of Commission Decision 2003/193/EC of 5 June 2002 on State aid granted by Italy in the form of tax exemptions and subsidised loans to public utilities with a majority public capital holding (OJ 2003 L 77, p. 21).

Operative part of the judgment

The Court:

1. Dismisses the main appeal and the cross-appeal.
2. Orders A2A SpA to pay the costs of the main appeal.
3. Orders the European Commission to pay the costs of the cross-appeal.

⁽¹⁾ OJ C 267, 7.11.2009.