3. In view of the foregoing, is it possible to consider that, although an animal holds a pedigree certificate which has been issued by an association of breeders of the Member State and in which the abovementioned phrase is included, such an animal, when it is the subject of intra-Community trade, does not confer on the trader an entitlement to export aids because it is not considered a pure-bred breeding animal despite there being an official document in which the abovementioned phrase is included?

---

([1]) Commission Decision of 17 May 2005 on pedigree certificates and particulars for pure-bred breeding animals of the bovine species, their semen, ova and embryos (OJ 2005 L 125, p. 15).

---

**Appeal brought on 21 July 2014 by Dunamenti Erőmű Zrt against the judgment of the General Court (Sixth Chamber) delivered on 30 April 2014 in Case T-179/09: Dunamenti Erőmű Zrt v European Commission**

**(Case C-357/14 P)**

(2014/C 329/10)

*Language of the case: English*

**Parties**

*Appellant:* Dunamenti Erőmű Zrt (represented by: J. Philippe, F.-H. Boret, A.-C. Guyon, avocats)

*Other party to the proceedings:* European Commission

**Form of order sought**

The Appellant claims that the Court should:

— quash the judgment of the General Court of 30 April 2014 in Case T-179/09, in so far as it confirms the Commission Decision 2009/609/EC of 4 June 2008 on State aid C 41/2005 awarded by Hungary through Power Purchase Agreements ([1]) which declared the PPA as illegal and incompatible State aid;

— give final judgment and annul the Commission Decision 2009/609/EC of 4 June 2008 on State aid C 41/2005 awarded by Hungary through Power Purchase Agreements in so far as it found that the PPA was illegal and incompatible State aid, or, in the alternative, to refer the case back to the General Court; and

— order the Commission to pay the costs of the proceedings before the General Court and the Court of Justice.

**Pleas in law and main arguments**

The Appellant relies on five pleas in law. In the judgment under appeal, the General Court dismissed the application brought by the Appellant for, in essence, the annulment of Commission Decision 2009/609/EC of 4 June 2008 on the State aid C 41/05 awarded by Hungary through Power Purchase Agreements and, in the alternative, the annulment of Articles 2 and 5 of that decision.

By its first plea, the Appellant respectfully contests the General Court's assessment in concluding that the Power Purchase Agreement (PPA) could be classified as new aid without determining beforehand whether the PPA constituted State aid at all within Article 107(1) TFEU.

By its second plea, the Appellant respectfully contests the General Court's conclusion that the Commission had not erred in finding that the time of Hungary's accession to the EU was the appropriate reference period for characterising a measure as State aid in accordance with the criteria laid down in Article 107(1) TFEU. The General Court errs in law in considering that Annex IV established a rule whereby the relevant period to assess whether a State measure constituted State aid was the time of Hungary's accession. The meaning of Article IV was distorted since it neither provides nor suggests that the analysis of whether a measure constitutes State aid should be conducted at the date of accession.

By its third plea, the Appellant respectfully notes that the General Court commits errors of law in considering that an advantage within the meaning of Article 107(1) had been conferred, without taking into account the elements prevailing at the time of the conclusion of the PPA. The General Court errs in concluding that an advantage had been conferred when i) Magyar Villamos Művek (MVM) had acted as a private investor in concluding the PPA as a preparatory measure to facilitate the privatisation of Dunamenti, and (ii) in any event, even if the PPA had conveyed any advantage (which the Appellant rejects), this was repaid through the sale of Dunamenti.

By its fourth plea, the Appellant respectfully contests the General Court's assessment of the risk stemming from MVM's binding minimum off-take obligation. The General Court errs in law in deducing the existence of an advantage from MVM's binding minimum off-take obligation without proving the existence of a structural risk.

By its fifth plea, the Appellant respectfully contests the General Court's confirmation of the methodology adopted by the Commission for the calculation of the quantum of the aid. The General Court commits an error in law in upholding the methodology prescribed in that it defined the amounts to be recovered as a difference in revenue and not as a difference in profits since this difference could lead to challenge the mere existence of a State aid.

([1]) OJ L 225, p. 53.

---

**Request for a preliminary ruling from the Vilniaus miesto apylinkės teismas (Lithuania) lodged on 23 July 2014 — ERGO Insurance SE, acting through its Lithuanian branch ERGO Insurance SE v If P&C Insurance AS, acting through its branch If P&C Insurance AS**

**(Case C-359/14)**

(2014/C 329/11)

*Language of the case: Lithuanian*

**Referring court**

Vilniaus miesto apylinkės teismas

**Parties to the main proceedings**

*Applicant:* ERGO Insurance SE, acting through its Lithuanian branch ERGO Insurance SE

*Defendant:* If P&C Insurance AS, acting through its branch If P&C Insurance AS

**Questions referred**

1. Must Article 4(4) of Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 [June] 2008 on the law applicable to contractual obligations (Rome I) ([1]), which provides that '[w]here the law applicable cannot be determined pursuant to paragraphs 1 or 2, the contract shall be governed by the law of the country with which it is most closely connected', be interpreted as meaning that, in circumstances such as those which have arisen in the present case, German law has to be applied?

2. If the answer to the first question is in the negative, must the principle laid down in Article 4 of Regulation (EC) No 864/2007 of the European Parliament and of the Council of 11 July 2007 on the law applicable to non-contractual obligations (Rome II) ([2]) be interpreted as meaning that, in circumstances such as those which have arisen in the present case, the law to be applied to the dispute between the insurer of the tractor and the insurer of the trailer must be determined in accordance with the law of the country of the place in which the damage resulting from the road accident occurred?

([1]) OJ L 177, p. 6.
([2]) OJ L 199, p. 40.