

**Pleas in law and main arguments**

1. infringement of the law by reason of misstatement of the legal basis, inconsistent application and misapplication of rules and inadequate statement of grounds in relation to the first part of the first plea in the action before the Court of First Instance (paragraphs 70, 71, 72, 73, 75, 76 and 77 of the judgment);
2. infringement of the law by reason of inadequate and contradictory statement of grounds in relation to the second part of the first plea in the action before the Court of First Instance (paragraphs 91, 92, 93, 94 and 95 of the judgment);
3. infringement of the law by reason of the lack of legal basis and inadequate and contradictory statement of grounds in relation to the first part of second plea in the action before the Court of First Instance (paragraphs 110 — 123 of the judgment);
4. infringement of the law by reason of inadequate and contradictory statement of grounds in relation to the second, third and fourth parts of the second plea in the action before the Court of First Instance (paragraphs 147, 148, 149, 151, 153, 154 and 155 of the judgment).

**Action brought on 13 October 2006 — Commission of the European Communities v Hellenic Republic**

(Case C-419/06)

(2006/C 310/14)

*Language of the case: Greek***Parties***Applicant:* Commission of the European Communities (represented by: M. Konstantinidis and E. Righini)*Defendant:* Hellenic Republic**Form of order sought**

The Court is asked to:

- declare, that, by failing to take the necessary measures, within the prescribed period,
- to abolish aid found to be unlawful and incompatible with the common market by Commission Decision C(2005)2706 of 14 September 2005 relating to State aid granted by Greece to Olympic Airways and Olympic Airlines (notified on 15 September 2005 by document SG Greffe (2005) D/205062), and

— to recover that aid from the recipients,

and in any event by failing to inform the Commission of such specific measures, the Hellenic Republic has failed to fulfil its obligations under Articles 2, 3 and 4 of the above decision and the EC Treaty;

— order the Hellenic Republic to pay the costs.

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The Commission decision requires Greece to recover the aid referred to in Article 1 from the recipients and to suspend without delay each payment of aid to Olympic Airways and Olympic Airlines. Greece was also required to inform the Commission, within two months of the date of the decision, of the measures it took to comply.

The above period allowed for compliance expired on 15 November 2005.

According to settled case law, the only justification that can be put forward by a Member State in the context of the Article 88(2) EC procedure is the absolute impossibility of proper implementation of the decision. The Commission would, moreover, point out that, in accordance with the above case-law, the Greek authorities could not rely on absolute impossibility without having attempted to recover the amount, and no such attempt has been made.

The Greek authorities have not relied on extraordinary or unforeseeable difficulties rendering implementation of the decision impossible. Nor have they proposed alternative means of applying the decision which would enable the difficulties to be overcome. The Greek authorities have confined themselves to challenging the validity of the decision and of the quantitative calculation of the aid by the Commission, a fact which shows that they have not applied the slightest measure to suspend or recover the aid.

**Action brought on 6 October 2006 — Commission of the European Communities v Italian Republic**

(Case C-424/06)

(2006/C 310/15)

*Language of the case: Italian***Parties***Applicant:* Commission of the European Communities (represented by: E. Montaguti and N. Yerrell, Agents)*Defendant:* Italian Republic