INFORMATION ON UNPUBLISHED DECISIONS

Reports of Cases

Order of the General Court (Fifth Chamber) of 9 January 2012 — Neubrandenburger Wohnungsgesellschaft v Commission

(Case T-407/09)

(Action for annulment — State aid — Contracts for the sale of apartments as part of the privatisation of publicly-owned apartments in Neubrandenburg — Complaint — Act not subject to review — Inadmissibility — Action for failure to act)

1. *Actions for annulment — Actionable measures — Measures producing binding legal effects — Commission letter merely communicating a provisional first analysis as to a possible State aid measure — Not included (Art. 230 EC) (see paras 25-27, 29, 30)*

2. *Actions for failure to act — Institution called upon to act — Definition of position within the meaning of Article 232, second para., EC — Concept — Commission letter merely communicating a provisional first analysis as to a possible State aid measure — Included — Inadmissibility (Arts 88(2) EC and 232 EC) (see paras 37-39, 41)*

Re:

ACTION, first, for annulment of the Commission decision claimed to be contained in the letter of 29 July 2009 declaring that some contracts concluded by the applicant regarding the sale of apartments as part of the privatisation of publicly-owned apartments in Neubrandenburg did not fall within the scope of Article 87(1) EC and, second, for a declaration of the Commission's failure to act, under Article 232 EC, since the Commission did not define its position on those contracts on the basis of Article 4 of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article [88 EC] (OJ 1999 L 83, p. 1).

Operative part

1. The action is dismissed as inadmissible.

2. Neubrandenburger Wohnungsgesellschaft mbH is ordered to bear its own costs and pay those incurred by the Commission, Bavaria Immobilien Beteiligungsgesellschaft mbH & Co., Objekte Neubrandenburg KG and Bavaria Immobilien Trading GmbH & Co. Immobilien Leasing Objekt Neubrandenburg KG.