Judgment of the Court (Fifth Chamber) of 13 October 2011 — Commission v Italy

(Case C-454/09)

(Failure of a Member State to fulfil obligations — State aid — Aid for New Interline SpA — Recovery)

1. *Actions for failure to fulfil obligations — Failure to comply with a Commission decision concerning State aid — Duty to recover the aid granted — Period within which the aid is to be recovered (Arts 88(2) EC, 226 EC and 249 EC) (see paras 34, 37)*

2. *State aid — Recovery of unlawful aid — Recipient undertakings that become bankrupt — Aid entered in the schedule of liabilities in order to restore the status quo ante (Art. 88(2) EC) (see paras 35-36)*

3. *Actions for failure to fulfil obligations — Failure to comply with a Commission decision concerning State aid — Defences — Legality of the decision called in question — Inadmissibility — Limits — Non-existent measure (Arts 88(2), second para., EC, 226 EC, 227 EC, 230 EC and 232 EC) (see para. 41)*

Re:

Failure of a Member State to fulfil obligations — Failure to adopt, within the prescribed period, all the measures necessary to comply with Articles 2, 3 and 4 of Commission Decision 2008/697/EC of 16 April 2008 on State Aid C 13/07 (ex NN 15/06 and N 734/06) implemented by Italy for New Interline (notified under document number C(2008) 1321).

Operative part

The Court:

1. Declares that, by failing to adopt, within the prescribed period, all the measures necessary to ensure implementation of Commission Decision 2008/697/

EC of 16 April 2008 on State Aid C 13/07 (ex NN 15/06 and N 734/06) implemented by Italy for New Interline, the Italian Republic has failed to fulfil its obligations under the fourth paragraph of Article 249 EC and Articles 2 and 3 of that decision;

2. Orders the Italian Republic to pay the costs.

Order of the Court (Seventh Chamber) of 13 October 2011 — Evropaïki Dynamiki v Commission

(Case C-560/10 P)

(Appeal — Public service contracts — Management and maintenance of the 'Your Europe' portal — Rejection of the tender — Regulations (EC, Euratom) No 1605/2002 and No 2342/2002 — Full copy of the evaluation report — Principles of transparency and equal treatment — Rights to good administration and to a fair hearing — Errors of law — Distortion of the evidence — Clear inadmissibility — Clearly unfounded ground of appeal)

Appeals — Grounds — Mere repetition of the pleas and arguments put forward before the General Court — Error of law relied on not identified — Inadmissibility (Art. 256 TFEU; Statute of the Court of Justice, Art. 58, first para.; Rules of Procedure of the Court of Justice, Art. 112(1), first para., (c)) (see paras 26, 33-34)

Re:

Appeal against the judgment of the General Court (Fifth Chamber) of 9 September 2010 in Case T-300/07 *Evropaïki Dynamiki* v *Commission* annulling the Commission's decision of 13 July 2007 rejecting the tender submitted by Evropaïki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE in tendering procedure ENTR/05/78 for Lot 2 (Infrastructure Management) for the management