Judgment of the Court (Second Chamber) of 29 November 2007 — Stadtwerke Schwäbisch Hall and Others v Commission

(Case C-176/06 P)

Appeal — Aid allegedly granted by the German authorities to nuclear power stations — Provisions for closure of power stations and disposal of radioactive waste — Inadmissibility of the action before the Court of First Instance — Absolute bar

1. *Appeals — Grounds — Inadmissibility of the action before the Court of First Instance — Absolute bar for non-compliance with the condition laid down by Article 230, fourth para., EC — Examination of Court's own motion (Art. 230, fourth para., EC; Statute of the Court of Justice, Art. 56) (see para. 18)*

2. *Actions for annulment — Natural or legal persons — Measures of direct and individual concern to them (Arts 88(2) and (3) EC and 230, fourth para. , EC) (see paras 19-25, 28-31)*

Re:

APPEAL against the judgment of the Court of First Instance (Fourth Chamber) of 26 January 2006 in Case T-92/02 *Stadtwerke Schwäbisch Hall and Others* v *Commission* in which the Court dismissed the action seeking annulment of Commission Decision C(2001) 3967 final of 11 December 2001 declaring that the German tax exemption scheme applied to the reserves established by nuclear power stations for the purpose of disposal of their radioactive waste and the permanent closure of their plants does not constitute State aid as referred to in Article 87(1) EC — Obligation of the Commission to initiate the *inter partes* procedure provided for in Article 88(2) EC where there are difficulties of assessment or doubts

Operative part

The Court:

1. Annuls the judgment of the Court of First Instance of the European Communities of 26 January 2006 in Case T-92/02 *Stadtwerke Schwäbisch Hall and Others* v *Commission*;

2. Dismisses as inadmissible the action brought by Stadtwerke Schwäbisch Hall GmbH, Stadtwerke Tübingen GmbH and Stadtwerke Uelzen GmbH before the Court of First Instance of the European Communities seeking annulment of Commission Decision C(2001) 3967 final of 11 December 2001 declaring that the German tax exemption scheme applied to the reserves established by the operators of nuclear power stations for the purpose of the safe disposal of their radioactive waste and the permanent closure of their plants does not constitute State aid as referred to in Article 87(1) EC;

3. Orders Stadtwerke Schwäbisch Hall GmbH, Stadtwerke Tübingen GmbH and Stadtwerke Uelzen GmbH to pay the costs of the two sets of proceedings.

Judgment of the Court (Third Chamber) of 29 November 2007 — Italy v Commission

(Case C-417/06 P)

Appeal — Admissibility — Structural Funds — Financing of Community initiatives — Amendment of indicative allocations — Enforcement of the final judgment

1. *Actions for annulment — Judgment annulling a measure — Effects (Art. 233 EC) (see paras 50-53, 59, 60, 65, 66)*