Court of First Instance: TFI Case against the Commission

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The Court of First Instance has dismissed TF1's action for the annulment of the Commission's decision classifying certain measures adopted by the French Republic in favour of the public television stations France 2 and France 3 as State aid compatible with the common market, due to its legal team's procedural mishaps. TF1's claims have been ongoing since 1993.

In 1993, Télévision française 1 SA (TF1), owners of the private French television network TF1, launched a complaint to the European Commission concerning the methods of funding of two French public channels, France 2 and France 3. TF1 argued that the measures used to fund the broadcasters constituted illegal state aid (see IRIS 2004-2: 4). In June 1999, the Commission was condemned by the Court of First Instance for failing to reach a decision within an appropriate time period. In July 1999, the Commission initiated a formal investigation procedure under Article 88(2) EC Treaty with regard to this ad hoc financial assistance.

In 2003, the European Commission reached a decision, dismissing TF1's claim concerning EUR 388 million in grants and endowments that were received by public networks between 1988 and 1994. The Commission decided that the financial assistance was consistent with the common market, given that it was limited to compensation for the costs associated with the fulfilment of their public service obligation and did not serve to fund commercial activities.

TF1 appealed the decision, arguing in its first plea that the statement of reasons for the contested decision was erroneous and that the decision infringed Article 86(2) and the provisions on state aid. TF1 disputed the Commission's finding that the activities of France 2 and France 3 are a service in the general interest within the meaning of Article 86(2), and argued that they are not regarded as being in the general interest. TF1 further called into question the financial assessment of the aid made by the Commission. By its second plea, TF1 argued that the Commission misapplied Directive 80/723(1), when it decided that it did not apply to the broadcasting activities of public channels before 2000 and alleged the misapplication of the Protocol on the system of public broadcasting.

TF1's appeal was however dismissed in May 2008, the Court of First Instance condemning the mishandling of TF1's file. Indeed, the Court concluded that TF1's

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pleas were inadmissible, given that they did not satisfy the minimum standards of clarity and precision, as set out in Article 44(1) of the Rules of Procedure. The Court further concluded that regardless of the pleas' inadmissibility, they were manifestly unfounded in law, the first plea lacking any element of proof to support it, the second plea being founded on a false allegation.

TF1 v Commission, T-144/04, 19 May 2008

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