

Appeal brought on 8 April 2022 by Polskie Górnictwo Naftowe i Gazownictwo S.A. against the judgment of the General Court delivered on 2 February 2022 in Case T-616/18, Polskie Górnictwo Naftowe i Gazownictwo v Commission

(Case C-255/22 P)

(2022/C 266/16)

Language of the case: Polish

Parties

Appellant: Polskie Górnictwo Naftowe i Gazownictwo S.A. (represented by: K. Karasiewicz, radca prawny, and T. Kaźmierczak, adwokat)

Other parties to the proceedings: European Commission, Republic of Lithuania, Republic of Poland, Gazprom PJSC, Gazprom export LLC, and Overgas Inc.

Form of order sought

The appellant claims that the Court should:

- set aside the judgment under appeal in its entirety;
- annul the contested decision of the European Commission in its entirety;
- in the alternative, remit the case to the General Court for review in accordance with the judgment of the Court of Justice;
- order the Commission to pay the costs of the present proceedings and of the proceedings before the General Court.

Pleas in law and main arguments

- (1) The General Court erred in law, infringing Article 9(1) of Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty⁽¹⁾ ('Regulation No 1/2003') by:
 - (a) incorrectly interpreting that provision, read in conjunction with paragraph 127 of the Commission notice on best practices for the conduct of proceedings concerning Articles 101 and 102 TFEU, which led it incorrectly to conclude that the Commission had not made a manifest error of assessment in respect of the adequacy of the commitments;
 - (b) manifestly distorting the facts on a number of occasions, which led it to misapply Article 9 of Regulation No 1/2003 and, as a result of that infringement, incorrectly to find that the Commission had not made a manifest error of assessment in respect of the adequacy of the commitments;
 - (c) failing to consider that, in the context of its permissible discretion in assessing complex economic and technical issues, the Commission was obliged to act in a manner that complied with and accounted for the provisions of the TFEU and the fundamental principles of the EU legal order, since its actions may not be contrary to the provisions of the TFEU and the fundamental principles of the EU legal order; nor may they lead to an outcome that would be contrary to those provisions [or] principles;
- (2) The General Court erred in law, infringing Article 194 TFEU by incorrectly interpreting that provision and, as a result, incorrectly failing to apply it, which led to Article 9 of Regulation No 1/2003 and Article 194 TFEU being deprived of their effectiveness;
- (3) The General Court erred in law, infringing Article 9(1) of Regulation No 1/2003 by incorrectly interpreting the concept of 'manifest error of assessment' when examining the manner in which the Commission had conducted the assessment of complex economic and technical issues when examining the adequacy of the commitments, which led it incorrectly to conclude that the Commission had not made a manifest error of assessment in respect of the adequacy of the commitments;

- (4) The General Court erred in law, infringing Article 9(2) of Regulation No 1/2003 by incorrectly interpreting that provision with regard to its indicating, as a basis for reopening the proceedings:
- (a) infringement of a commitment the content of which does not result from the content of the operative part, that is to say, the legally binding part of the decision in Case AT.39816 — Upstream gas supplies in Central and Eastern Europe;
 - (b) circumstances which did not form the basis of that decision and which were not related to its subject matter, which led it incorrectly to conclude that the Commission had not made a manifest error of assessment in respect of the adequacy of the commitments; the appellant also submits that all the aforementioned infringements, jointly and severally, had a decisive influence on the content of the judgment under appeal and, consequently, each of the indicated infringements on its own should result in that judgment being set aside.

(¹) OJ 2003 L 1, p. 1.

Request for a preliminary ruling from the Krajský soud v Brně (Czech Republic) lodged on 14 April 2022 — CD v Ministerstvo vnitra České republiky, Odbor azylové a migrační politiky

(Case C-257/22)

(2022/C 266/17)

Language of the case: Czech

Referring court

Krajský soud v Brně

Parties to the main proceedings

Applicant: CD

Defendant: Ministerstvo vnitra České republiky, Odbor azylové a migrační politiky

Question referred

Should Article 4(2) and (3) and Article 5 *in fine* of Directive 2008/115/EC (¹) of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals in conjunction with Article 2, Article 4, and Article 19(2) of the Charter of Fundamental Rights of the European Union be interpreted as precluding the application, in assessing whether a return decision under Article 6 of Directive 2008/115/EC leads to a breach of the non-refoulement principle, of the concept of a safe country of origin under Articles 36 and 37 of Directive 2013/32/EU (²) of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection, in combination with the narrowed definition of the non-refoulement principle focused solely on the prohibition of ill treatment under Article 4 of the Charter of Fundamental Rights of the European Union and Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms?

(¹) OJ 2008 L 348, p. 98.

(²) OJ 2013 L 180, p. 60.

Request for a preliminary ruling from the Tribunale ordinario di Ravenna (Italy) lodged on 22 April 2022 — G.D., A.R., C.M. v Ministero dell'istruzione, Istituto nazionale della previdenza sociale (INPS)

(Case C-270/22)

(2022/C 266/18)

Language of the case: Italian

Referring court

Tribunale ordinario di Ravenna