

- in the alternative, annul in part the determination in paragraph 1 of the operative part of the judgment of 16 September 2013 in so far as it concerns the appellant;
- in the further alternative, reduce the fine imposed on the appellant in Article 2 of the contested decision of 23 June 2010 to such an amount as the Court considers fair and appropriate;
- in the further alternative, set aside the judgment of the General Court of 16 September 2013 and refer the case back to the General Court;
- in each case, order the Commission to pay the costs.

### Grounds of appeal and main arguments

The appellant claims that the judgment under appeal should be set aside on the following grounds:

1. In its first ground, the appellant argues that the General Court is guilty of distorting evidence by wrongly failing to take account of information, submitted by the appellant and discussed during the oral procedure before the General Court, that was relevant to its verdict.
2. In its **second ground**, the appellant objects to the merging of factually and legally independent courses of conduct into one allegedly single, complex and continuous infringement. The appellant also contends that the application by the General Court and the Commission of the principle of ‘one single, complex and continuous infringement’ is at variance with the right to due process and the proper administration of justice and contrary to the legal requirement of review by the General Court.
3. By its **third ground**, the appellant contends that the General Court failed to carry out a proper legal assessment, thereby allowing the guarantee of effective legal protection under European Union law to be infringed.
4. By its **fourth ground**, the appellant argues that the fine imposed cannot, in any event, be supported by the outcome of the General Court’s examination and that it is disproportionate.

**Appeal brought on 5 December 2013 by Villeroy & Boch against the judgment of the General Court (Fourth Chamber) delivered on 16 September 2013 in Joined Cases T-373/10, T-374/10, T-382/10 and T-402/10 Villeroy & Boch Austria and Others v Commission**

(Case C-644/13 P)

(2014/C 45/41)

*Language of the case: French*

### Parties

*Appellant:* Villeroy & Boch (represented by: J. Philippe, avocat)

*Other party to the proceedings:* European Commission

### Form of order sought

The appellant claims that the Court should:

- annul, in its entirety, the judgment of the General Court (Fourth Chamber) of 16 September 2013 in Joined Cases T-373/10, T-374/10, T-382/10 and T-402/10, in so far as it dismisses the appellant’s action;
- in the alternative, annul in part the judgment of the General Court of 16 September 2013;
- in the alternative, reduce the fine imposed on the appellant in Article 2 of the contested decision of 23 June 2010;
- also in the alternative, refer the case back to the General Court for reconsideration;
- order the Commission to pay the costs.

### Grounds of appeal and main arguments

The appellant puts forward four grounds of appeal.

By the first ground of appeal, the appellant alleges that there is a contradiction in the General Court’s assessment of the evidence relating to all of the facts concerning France. The General Court assessed, in the judgment under appeal, three items of evidence in a manner which was contrary, even diametrically opposed, to its findings in relation to that same evidence in the parallel Joined Cases T-379/10 and T-381/10 *Sanitec*, and T-380/10 *Wabco, Ideal Standard and Others*, in which the applicants were acquitted in respect of the allegations relating to France. According to the appellant in the present case, such a fundamental contradiction — as evidenced by the opposite conclusions reached in respect of the same evidence — infringes the principle of equal treatment and the principle of *in dubio pro reo* and also adversely affects the logical and legal consistency of the General Court’s judgment.

By the second ground of appeal, the appellant alleges that the General Court erred in law. The General Court, it submits, artificially grouped together acts that were legally distinct and factually unrelated in order to classify them as constituting one continuous and complex infringement. Moreover, the General Court failed to take account of the fact that the measures in question, which it had nevertheless examined together, were not complementary.

By the third ground of appeal, the appellant criticises the extent of the review carried out by the General Court, which confined itself to a limited review and, by so doing, failed to exercise in full its powers of judicial review and revision. The appellant takes the view that this amounts to an infringement of its right to a fair hearing.

By the fourth ground of appeal, the appellant submits that the fine imposed is disproportionate.

---

**Action brought on 6 December 2013 — European Commission v Republic of Poland**

**(Case C-648/13)**

(2014/C 45/42)

*Language of the case: Polish*

**Parties**

*Applicant:* European Commission (represented by: K. Herrmann and E. Manhaeve, Agents)

*Defendant:* Republic of Poland

**Form of order sought**

— declare that, by failing to transpose, incompletely transposing, or incorrectly transposing Article 2.19, 2.20, 2.26 and 2.27, Article 8(1), Article 9(2), Article 10(3) and Article 11(5) of, and Annex V (points 1.3, 1.3.4, 1.3.5, 1.4 and 2.4.1) and Annex VII (Part A, points 7.2 to 7.10) to, Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy, <sup>(1)</sup> the Republic of Poland has failed to fulfil its obligations under those provisions and under Article 24 of that directive;

— order the Republic of Poland to pay the costs of the proceedings.

**Pleas in law and main arguments**

*Article 2.19, 2.20, 2.26 and 2.27*

The Commission claims that the Republic of Poland has failed correctly and fully to transpose the definitions contained in Article 2.19, 2.20, 2.26 and 2.27 of Directive 2000/60/EC.

*Article 8(1)*

The Commission criticises the Republic of Poland on the ground that the Polish provisions do not set out requirements corresponding to the specifications for Natura-2000 sites.

*Article 9(2)*

In the Commission's view, Article 9(2) of Directive 2000/60/EC was not fully or properly transposed in so far as concerns the obligation to include, in the river basin management plans, a report on the steps planned for effecting recovery of costs which will contribute to achieving the environmental objectives of that directive.

*Article 10(3)*

The Commission takes the view that the Republic of Poland has not transposed the obligation set out in Article 10(3) of Directive 2000/60/EC, even though transposition of that provision is crucial to achieving the objectives of the water directive.

*Article 11(5)*

The Commission claims that the Republic of Poland has incorrectly transposed the provision contained in Article 11(5) of Directive 2000/60/EC inasmuch as the scope of the corresponding Polish provisions is narrower than in the directive.

*Annex V*

The Commission takes the view that, although Annex V was in large measure transposed, a number of points in that annex were not satisfactorily transposed in Polish law. The criticism of incorrect transposition relates in particular to the inclusion of estimates with regard to the degree of reliability in the river management plans (points 1.3, 1.3.4 and 2.4.1), the monitoring of habitats and species in protected areas (point 1.3.5) and the exclusion of hydromorphological elements in the classification of water status (point 1.4.2).

*Annex VII*

The Commission criticises the Republic of Poland on the ground that it incorrectly transposed points 7.2 to 7.10 of Part A of Annex VII, since the provisions on the national water-protection programme must be distinguished from the river basin management plans within the terms of Annex VII to Directive 2000/60/EC. For that reason, in the Commission's view, the national provisions adopted by the Polish authorities which constitute transposition of Article 11 of the directive are insufficient to ensure transposition of the requirements set out in points 7.2 to 7.10 of Annex VII.

---

<sup>(1)</sup> OJ 2000 L 327, p. 1.