

5. Fifth plea: the General Court did not observe the principles of legal certainty and legitimate expectations in upholding the decision at issue in so far as it ordered the recovery of the (alleged) aid.
6. Sixth plea: the General Court did not take into account the Commission's infringement of BPP's right to fair treatment, in so far as the present case was treated differently from similar situations.

⁽¹⁾ Commission Decision No 2011/346/EU of 20 July 2010 on State aid C 33/09 (ex NN 57/09, CP 191/09) implemented by Portugal in the form of a State guarantee to Banco Privado Português, SA (OJ 2011, L 159, p. 95).

Appeal brought on 24 February 2015 by Tudapetrol Mineralölerzeugnisse Nils Hansen KG against the judgment of the General Court (Third Chamber) of 12 December 2014 in Case T-550/08 *Tudapetrol Mineralölerzeugnisse Nils Hansen KG v European Commission*

(Case C-94/15 P)

(2015/C 127/20)

Language of the case: German

Parties

Appellant: Tudapetrol Mineralölerzeugnisse Nils Hansen KG (represented by: Dr. U. Itzen and J. Ziebarth LLM, Rechtsanwältinnen)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

1. set aside the judgment of the General Court (Third Chamber) of 12 December 2014 in Case T-550/08 in so far as it concerns the appellant;
2. in the alternative, reduce appropriately the fine of EUR 12 million imposed on the applicant under Article 2 of the contested decision of 1 October 2008;
3. in the further alternative, refer the case back to the General Court for a fresh decision;
4. order the Commission to pay the costs of the proceedings.

Pleas in law and main arguments

The present appeal is brought against the judgment of the General Court (Third Chamber) of 12 December 2014, *Tudapetrol Mineralölerzeugnisse Nils Hansen KG v European Commission*, by which the General Court rejected the application to annul Commission Decision C(2008) 5476 final of 1 October 2008 in Case COMP/39181 — Candle waxes, in so far as it concerns the applicant and, in the alternative, for a reduction in the amount of the fine imposed upon it.

The appellant relies on the following grounds of appeal:

By its first ground of appeal, the appellant complains that the General Court infringed Articles 101 and 296 of the TFEU and its essential rights of defence and procedural rights since the General Court held it liable to pay a fine contrary to the principles for attributing liability to an undertaking for the purposes of EU competition law. The fundamental inconsistency lies in the fact that the General Court treated the appellant, on the one hand, and the separately fined limited partnership, H&R KG, and its subsidiary, on the other hand, as separate undertakings for the purposes of the fine. At the same time, the General Court, as well as the Commission before it, considered these undertakings as a single undertaking, 'H&R/Tudapetrol', for the purposes of finding an alleged infringement and the attribution of liability. The same undertakings cannot, however, have committed an infringement as *one* undertaking yet be considered as *two* undertakings for the purposes of the imposition of a fine. The General Court therefore incorrectly confirmed a double penalty for the same acts of what was allegedly a single undertaking.

By its second ground of appeal, the appellant complains that the General Court infringed the obligation to state the reasons for the judgment under appeal (Article 296 TFEU). This is, first, because the judgment under appeal did not contain any sufficiently individualised findings as to the accusations against the appellant. On the basis of the undifferentiated reasons, which were confirmed by the General Court, for the infringement by the entity not described further other than as 'H&R/Tudapetrol', it is not possible to know which acts were attributed to the appellant, neither from the Commission Decision, nor the judgment under appeal. The appellant complains that its individual objections to the finding of the facts of the case were not dealt with comprehensively. The General Court only partially considered and ruled upon the objections raised. In so far as the General Court did address the appellant's objections, the General Court erred in law in its reasoning by contravening the rules of evidence or logic, or by distortion of the evidence before the court.

By its third ground of appeal, the appellant alleges that the General Court materially infringed the appellant's rights of defence. In particular, the General Court, as the Commission before it, failed to carry out a sufficiently individualised statement of the allegations upheld against the appellant and instead incorrectly reasoned throughout on the basis of the unclear denomination 'H&R/Tudapetrol'. This had the result that it was not possible for the appellant to know which individual allegations were raised against it, nor the evidence upon which those allegations were grounded. The principle of *in dubio pro reo* was therefore infringed and the appellant's defence of the allegations raised was improperly impaired.

Appeal brought on 26 February 2015 by Netherlands Maritime Technology Association, formerly Scheepsbouw Nederland against the judgment of the General Court (Seventh Chamber) delivered on 9 December 2014 in Case T-140/13: Netherlands Maritime Technology Association v European Commission

(Case C-100/15 P)

(2015/C 127/21)

Language of the case: English

Parties

Appellant: Netherlands Maritime Technology Association, formerly Scheepsbouw Nederland (represented by: K. Struckmann, Rechtsanwalt, G. Forwood, Barrister)

Other parties to the proceedings: European Commission, Kingdom of Spain

Form of order sought

The appellant claims that the Court should:

— Set aside the judgment under appeal insofar as it rejected the Appellant's application for annulment of the Decision;