

Appeal brought on 12 August 2016 by Trefilerías Quijano, S.A. against the judgment of the General Court (Sixth Chamber) delivered on 2 June 2016 in Joined Cases T-426/10 to T-429/16 and T-438/12 to T-441/12, Moreda-Riviere Trefilerías and Others v Commission

(Case C-456/16 P)

(2016/C 392/18)

Language of the case: Spanish

Parties

Appellant: Trefilerías Quijano, S.A. (represented by: F. González Díaz, A. Tresandi Blanco and V. Romero Algarra, lawyers)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

- set aside the judgment of the General Court of 2 June 2016 in Cases T-438/12 to T-441/12 and, in particular, in Case T-439/12, *Trefilerías Quijano v European Commission*;
- order the Commission to pay the costs incurred in both the present proceedings and the proceedings before the General Court

Grounds of appeal and main arguments

1. The General Court erred in law in declaring inadmissible the plea in law relating to the infringement of the appellant's rights of defence.
2. The General Court erred in law by applying an incorrect legal standard when evaluating the second request for inability to pay and, consequently, the admissibility of the action.
3. The General Court erred in law in evaluating the evidence or clearly distorting the evidence, failing to carry out a full review exercising its powers of unlimited jurisdiction, infringing the right to effective judicial protection and failing to state reasons.

Appeal brought on 12 August 2016 by Global Steel Wire, S.A. against the judgment of the General Court (Sixth Chamber) delivered on 2 June 2016 in Joined Cases T-426/10 to T-429/16 and T-438/12 to T-441/12, Moreda-Riviere Trefilerías and Others v Commission

(Case C-457/16 P)

(2016/C 392/19)

Language of the case: Spanish

Parties

Appellant: Global Steel Wire, S.A. (represented by: F. González Díaz, A. Tresandi Blanco and V. Romero Algarra, lawyers)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

- set aside the judgment of the General Court of 2 June 2016 in Cases T-426/10 to T-429/10 and, in particular, in Case T-429/10, *Global Steel Wire S.A. v Commission*;
- order the Commission to pay the costs incurred in both the present proceedings and the proceedings before the General Court.

Grounds of appeal and main arguments

The appellant relies on the following thirteen grounds of appeal:

On the imputation of the infringement, in relation to the additional indications:

1. In the **first place**, the General Court distorted the facts and failed to state reasons in relation to the alleged existence of structural links between TQ and GSW prior to 1996 and erred in law in the legal characterisation of the facts relating to the persons liable for the infringement during the entire infringement period.
2. In the **second place**, the General Court erred in law in assessing the evidence, in breach of its duties as regards judicial review and failed to state reasons and applied an incorrect legal standard when assessing the powers of the sole director as a legally relevant indication of the existence of a single economic unit.
3. In the **third place**, the General Court erred in law in the legal characterisation and distorted the facts in relation to the perception of competitors.
4. In the **fourth place**, the General Court erred in law in the legal characterisation of the facts in relation to the overlap of staff.
5. In the **fifth place**, the General Court erred in law in the legal characterisation of the facts in relation to the division of AP production and sales activities between GSW and the companies owned by the latter.
6. In the **sixth place**, the General Court erred in law in the legal characterisation of the facts relating to the alleged meeting.

On the imputation of the infringement, in relation to the issue of corporate succession:

7. In the **seventh place**, the General Court erred in law by applying an incorrect legal standard when assessing the issue of corporate succession.
8. In the **eighth place**, the General Court erred in law in the legal characterisation of the facts by holding both GSW and MRT liable for the conduct of Trenzas y Cables.

On the imputation of the infringement, in relation to the assessment of the exercise of decisive influence and the evidence adduced in order to rebut the presumption of actual exercise of decisive influence:

9. In the **ninth place**, the General Court applied an incorrect legal standard when assessing the exercise of decisive influence and failed to state reasons in relation to the imputation to GSW of TQ's conduct during the entire infringement period.
10. In the **tenth place**, the General Court applied an incorrect legal standard in determining the existence of actual exercise of decisive influence, erred in law in the assessment of the evidence adduced by the appellant in order to rebut the presumption of actual exercise of decisive influence over the companies owned by the latter and breached its duties as regards judicial review.

On the inability to pay:

11. In the **eleventh place**, the General Court committed an error of law consisting in the infringement of the rights of the defence by finding that, inasmuch as the Commission based its assessment of the appellant's ability to pay on facts adduced and known by the latter, the Commission had respected the appellant's right to be heard.

12. In the **twelfth place**, in relation to the alleged possibility of the appellant obtaining external financing, the General Court erred in law in the assessment of the evidence by failing to exercise its powers of judicial review in accordance with law, erred in law by failing to fulfil its duty to state reasons and, lastly, erred in law by distorting the facts and the evidence relating to the possibility of the appellant obtaining external financing.
13. In the **thirteenth place**, in relation to the alleged possibility for the appellant to have recourse to its shareholders, the General Court erred in law in assessing the evidence, and in any event, failed to fulfil its duty to exercise its powers of unlimited jurisdiction, by considering that the appellant had not provided the Commission with the information necessary to evaluate the assets of its shareholders and, in addition, the General Court failed to state reasons since it did not explain why the Deloitte reports relied on by the appellant lacked evidential value.

Appeal brought on 12 August 2016 by Trenzas y Cables de Acero PSC, S.L. against the judgment of the General Court (Sixth Chamber) delivered on 2 June 2016 in Joined Cases T-426/10 to T-429/16 and T-438/12 to T-441/12, Moreda-Riviere Trefilerías and Others v Commission

(Case C-458/16 P)

(2016/C 392/20)

Language of the case: Spanish

Parties

Appellant: Trenzas y Cables de Acero PSC, S.L. (represented by: F. González Díaz, A. Tresandi Blanco and V. Romero Algarra, lawyers)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

- set aside the judgment of the General Court of 2 June 2016 in Cases T-438/12 to T-441/12 and, in particular, in Case T-441/12, *Trenzas y Cables de Acero PSC, S.L. v Commission*;
- order the Commission to pay the costs incurred in both the present proceedings and the proceedings before the General Court.

Grounds of appeal and main arguments

1. The General Court erred in law in declaring inadmissible the plea in law relating to the infringement of the appellant's rights of defence.
 2. The General Court erred in law by applying an incorrect legal standard when evaluating the second request for inability to pay and, consequently, the admissibility of the action.
 3. The General Court erred in law in evaluating the evidence or clearly distorting the evidence, failing to carry out a full review exercising its powers of unlimited jurisdiction, infringing the right to effective judicial protection and failing to state reasons.
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