

Appeal brought on 19 September 2018 by Viscas Corp. against the judgment of the General Court (Eighth Chamber) delivered on 12 July 2018 in Case T-422/14: Viscas v Commission

(Case C-582/18 P)

(2018/C 427/27)

Language of the case: English

Parties

Appellant: Viscas Corp. (represented by: J.-F. Bellis, lawyer)

Other parties to the proceedings: European Commission, Furukawa Electric Co. Ltd

Form of order sought

The appellant claims that the Court should:

- set aside the judgment of the General Court of the European Union in T-422/14, Viscas Corp. v Commission, in so far as it rejected the plea in law alleging infringement of the principle of equal treatment as regards the calculation of the amount of the fine imposed on Viscas and ordered Viscas to pay the costs;
- annul Article 2 of Commission Decision C(2014) 2139 final ⁽¹⁾ in so far as it sets the amount of the fine imposed on Viscas at EUR 34 992 000;
- set the amount of the fine imposed on Viscas by reason of the infringement established in Article 1 of that decision at EUR 19 595 520;
- order the Commission to pay the costs of these proceedings and of the proceedings before the General Court.

Pleas in law and main arguments

In support of the appeal, Viscas relies on a single plea in law alleging that the General Court's judgment breaches the principle of equal treatment by upholding the methodology for determining the relevant value of sales, based on Point 18 of the Fining Guidelines ⁽²⁾, applied by the Commission in the contested decision. This methodology provides a substantial discriminatory advantage to the producers involved in both the European cartel and the international cartel configurations of the infringement as compared to those involved only in the international configuration. The determination of the producers' respective contribution to the infringement indeed takes no account of the European cartel configuration and thus considerably undervalues the weight in the infringement of the producers involved in both cartel configurations, in effect rewarding them for being involved in two cartels rather than one by imposing on them fines which are on average 44 % lower than if the infringement had been limited to the European cartel configuration.

⁽¹⁾ Commission Decision of 2 April 2014 relating to a proceeding under Article 101 of the Treaty on the Functioning of the European Union and Article 53 of the EEA Agreement (Case AT.39610 — Power Cables) (notified under document C(2014) 2139 final) (OJ 2014, C 319, p. 10)

⁽²⁾ Guidelines on the method of setting fines imposed pursuant to Article 23(2)(a) of Regulation No 1/2003 (OJ 2006, C 210, p. 2)