Judgment of the Court of First Instance of 27 September 2006 — Dresdner Bank and Others v Commission

(Joined Cases T-44/02 OP, T-54/02 OP, T-56/02 OP, T-60/02 OP and T-61(02 OP) [1]

(Competition — Article 81 EC — Price-fixing agreement and ways of charging for currency exchange services — Germany — Evidence of the infringement — Application to set aside judgments delivered by default)

(2006/C 294/88)

Language of the case: German

Parties

Applicants: Dresdner Bank AG (Frankfurt-am-Main, Germany) (represented by: M. Hirsch and W. Bosch, lawyers); Bayerische Hypo- und Vereinsbank AG, formerly Vereins- und Westbank AG (Munich, Germany) (represented by:initially J. Schulte, M. Ewen and A. Neus, and subsequently W. Knapp, T. Müller-Ibold and C. Feddersen, lawyers); Bayerische Hypo- und Vereinsbank AG (Munich) (represented by: initially W. Knapp, T. Müller-Ibold and B. Bergmann, and subsequently W. Knapp, T. Müller-Ibold and C. Feddersen, lawyers); DVB Bank AG, formerly Deutsche Verkehrsbank AG (Frankfurt-am-Main) (represented by: M. Klusmann and F. Wiemer, lawyers); and Commerzbank AG (Frankfurt-am-Main) (represented by: H. Satzky and B. Maassen, lawyers)

Defendant: Commission of the European Communities (represented by: T. Christoforou, A. Nijenhuis and M Schneider, Agents)

Re:

Application by the Commission to set aside the judgments of the Court of First Instance of 14 October 2004 in Cases T-44/02 *Dresdner Bank* v *Commission*, not published in the ECR, T-54/02 Vereins- und Westbank v *Commission*, not published in the ECR, T-56/02 *Bayerische Hypo- und Vereinsbank* v *Commission* [2004] ECR II-3495, T-60/02 *Deutsche Verkehrsbank* v *Commission*, not published in the ECR, and T-61/02 *Commerzbank* v *Commission*, not published in the ECR, delivered in default

Operative part of the judgment

The Court:

1. *Dismisses the application to set aside the judgments by default;*

2. *Orders the Commission to pay the costs.*

[1] OJ C 109, 4.5.2002.

Judgment of the Court of First Instance of 27 September 2006 — Archer Daniels Midland v Commission

(Case T-59/02) [1]

(Competition — Cartels — Citric acid — Article 81 EC — Fine — Article 15(2) of Regulation No 17 — Guidelines on the method of setting fines — Leniency Notice — Principles of legal certainty and non-retroactivity — Principle of proportionality — Equal treatment — Obligation to state reasons — Rights of the defence)

(2006/C 294/89)

Language of the case: English

Parties

Applicant: Archer Daniels Midland Co. (Decatur, Illinois, United States) (represented by: C.O. Lenz, lawyer, L. Martin Alegi, M. Garcia, and E. Batchelor, Solicitors)

Defendant: Commission of the European Communities (represented by: P. Oliver, Agent)

Re:

Application for annulment of Article 1 of Commission Decision 2002/742/EC of 5 December 2001 relating to a proceeding pursuant to Article 81 of the EC Treaty and Article 53 of the EEA Agreement (Case COMP/E-1/36.604 — Citric acid) (OJ 2002 L 239, p. 18) in so far as it finds that the applicant infringed Article 81 EC and Article 53 of the EEA Agreement by agreeing to restrict capacity in the market in question and to designate a producer who was to lead price increases in each national segment of the said market, and for the annulment of Article 3 of the same decision in so far as it pertains to the applicant and, in the alternative, for the reduction of the fine imposed on it.

Operative part of the judgment

The Court:

1. *Annuls Article 1 of Commission Decision 2002/742/EC of 5 December 2001 relating to a proceeding pursuant to Article 81 of the EC Treaty and Article 53 of the EEA Agreement (Case COMP/E-1/36.604 — Citric acid), in so far as, read in conjunction with recital 158, it finds that Archer Daniels Midland Co. froze, restricted and closed down citric acid production capacity;*

2. *Annuls Article 1 of Decision 2002/742 in so far as, read in conjunction with recital 158, it finds that Archer Daniels Midland Co. designated a producer who was to 'lead' price increases in each national segment of the relevant market;*

3. *Dismisses the remainder of the action;*

4. *Orders the Commission to pay one tenth of the costs incurred by Archer Daniels Midland Co.;*

5. *Orders Archer Daniels Midland Co. to pay the remainder of its own costs and the costs incurred by the Commission.*

(1) OJ C 144, 15.6.2002.

Judgment of the Court of First Instance of 27 September 2006 — Haladjian Frères v Commission

(Case T-204/03) (1)

(Competition — Article 81 EC — Article 82 EC — Distribution of spare parts — Parallel imports — Complaint — Decision rejecting complaint)

(2006/C 294/90)

Language of the case: French

Parties

Applicant: Haladjian Frères (Sorgues, France) (represented by: N. Coutrelis, lawyer)

Defendant: Commission of the European Communities (represented by: A. Whelan and O. Beynet, Agents, assisted by D. Waelbroeck, lawyer)

Interveners in support of the defendant: Caterpillar, Inc. (Peoria, Illinois, United States) and Caterpillar Group Services SA (Charleroi, Belgium) (represented by: initially N. Levy, Solicitor, and S. Kingston, Barrister, then N. Levy and T. Graf, lawyer)

Re:

Application for annulment of the Commission's decision of 1 April 2003 rejecting the complaint alleging infringements of Articles 81 EC and 82 EC lodged by Haladjian Frères SA against Caterpillar, Inc.

Operative part of the judgment

The Court:

1. *Dismisses the application;*

2. *Orders the applicant to bear its own costs and to pay the costs incurred by the Commission and the interveners.*

(1) OJ C 200, 23.8.2003.

Judgment of the Court of First Instance of 27 September 2006 — Werkgroep Commerciële Jachthavens Zuidelijke Randmeren and Others v Commission of the European Communities

(Case T-117/04) (1)

(State aid — Aid awarded by the Netherlands authorities to non-profit-making marinas — Action for annulment — Admissibility)

(2006/C 294/91)

Language of the case: Dutch

Parties

Applicants: Vereniging Werkgroep Commerciële Jachthavens Zuidelijke Randmeren (Zeewolde, Netherlands); Jachthaven Zijl Zeewolde BV (Zeewolde); Maatschappij tot exploitatie van onroerende goederen Wolderwijd II BV (Zeewolde); Jachthaven Strand-Horst BV (Ermelo, Netherlands); Recreatiegebied Erkemederstrand vof (Zeewolde); Jachthaven- en Campingbedrijf Nieuwboer BV (Bunschoten-Spakenburg, Netherlands); Jachthaven Naarden BV (Naarden, Netherlands), (represented by: T. Ottervanger, A. Bijleveld and A. van den Oord, lawyers)

Defendant: Commission of the European Communities (represented by: H. van Vliet, A. Bouquet and A. Nijenhuis, Agents)

Intervener in support of the defendant: Kingdom of the Netherlands, represented by H. Sevenster and M. de Grave, Agents,

Re:

Application for annulment of Commission Decision 2004/114/EC of 29 October 2003 concerning aid measures implemented by the Netherlands in favour of non-profit harbours for recreational crafts (OJ 2004 L 34, p. 63).

Operative part of the judgment

The Court:

1. *Dismisses the action as inadmissible.*

2. *Orders the applicants to bear their own costs as well as those incurred by the Commission. The Kingdom of the Netherlands shall bear its own costs.*

(1) OJ C 118, 30.4.2004.