GENERAL COURT

Judgment of the General Court of 14 July 2011 — Freistaat Sachsen v Commission

(Case T-357/02 RENV) [1]

(State aid — Aid granted by the authorities of the Free State of Saxony — Aid for coaching, participation in fairs, cooperation and design promotion — Decision declaring the aid scheme in part compatible and in part incompatible with the common market — Aid scheme for small and medium-sized enterprises — Failure to exercise discretion — Obligation to state reasons)

(2011/C 269/86)

Language of the case: German

Parties

Applicant: Freistaat Sachsen (Germany) (represented by: T. Lübbig, lawyer)

Defendant: European Commission (represented by: K. Gross, V. Kreuschitz and T. Maxian Rusche, acting as Agents)

Re:

Action for annulment of the second paragraph of Article 2 and of Articles 3 and 4 of Commission Decision 2003/226/EC of 24 September 2002 on an aid scheme which the Federal Republic of Germany is planning to implement — 'Guidelines on assistance for SMEs — Improving business efficiency in Saxony': Subprogrammes 1 (Coaching), 4 (Participation in fairs), 5 (Cooperation) and 7 (Design promotion) (OJ 2003 L 91, p. 13)

Operative part of the judgment

The Court:

1. *Dismisses the action;*
2. *Orders Freistaat Sachsen (Germany) to bear its own costs and to pay the costs incurred by the European Commission both before the General Court and before the Court of Justice.*

[1] OJ C 31, 8.2.2003.

Judgment of the General Court of 14 July 2011 — Arkema France v Commission

(Case T-189/06) [1]

(Competition — Agreements, decisions and concerted practices — Hydrogen peroxide and sodium perborate — Decision finding an infringement of Article 81 EC — Imputability of the infringement — Obligation to state the reasons on which the decision is based — Equal treatment — Principle of sound administration — Fines — Leniency Notice)

(2011/C 269/87)

Language of the case: French

Parties

Applicant: Arkema France SA (Colombes, France) (represented initially by A. Winckler, S. Sorinas Jimeno and P. Geffriaud, and subsequently by S. Sorinas Jimeno and E. Jégou, lawyers)

Defendant: European Commission (represented initially by F. Arbault and O. Beynet, and subsequently by V. Bottka, P.J. Van Nuffel and B. Gencarelli, Agents)

Re:

Action for partial annulment of Commission Decision C(2006) 1766 final of 3 May 2006 relating to a proceeding under Article 81 [EC] and Article 53 of the EEA Agreement (Case COMP/F/38.620 — Hydrogen peroxide and perborate), in so far as that decision concerns the applicant and, in the alternative, for annulment or reduction of the fine imposed on the applicant.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Arkema France SA to pay the costs.*

[1] OJ C 212, 2.9.2006.

Judgment of the General Court of 14 July 2011 — Total and Elf Aquitaine v Commission

(Case T-190/06) [1]

(Competition — Agreements, decisions and concerted practices — Hydrogen peroxide and sodium perborate — Decision finding an infringement of Article 81 EC — Imputability of the infringement — Rights of the defence — Presumption of innocence — Obligation to state the reasons on which the decision is based — Equal treatment — Principle that penalties must fit the offence — Principle of nullum crimen, nulla poena sine lege — Principle of sound administration — Legal certainty — Misuse of powers — Fines)

(2011/C 269/88)

Language of the case: French

Parties

Applicants: Total SA (Courbevoie, France) and Elf Aquitaine SA (Courbevoie, France) (represented by: É. Morgan de Rivery, A. Noël-Baron and E. Lagathu, lawyers)

Defendant: European Commission (represented initially by F. Arbault and O. Beynet, and subsequently by V. Bottka, P.J. Van Nuffel and B. Gencarelli, Agents)

Re:

Action for partial annulment of Commission Decision C(2006) 1766 final of 3 May 2006 relating to a proceeding under Article 81 [EC] and Article 53 of the EEA Agreement (Case COMP/F/38.620 — Hydrogen peroxide and perborate) and, in the alternative, for amendment of Article 2(i) of that decision.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Total SA and Elf Aquitaine SA to pay the costs.*

(1) OJ C 212, 2.9.2006.

Judgment of the General Court of 13 July 2011 — Shell Petroleum and Others v Commission

(Case T-38/07) (1)

(Competition — Agreements, decisions and concerted practices — Market in butadiene rubber and emulsion styrene butadiene rubber — Decision finding an infringement of Article 81 EC — Imputability of the offending conduct — Fines — Gravity of the infringement — Aggravating circumstances)

(2011/C 269/89)

Language of the case: English

Parties

Applicants: Shell Petroleum NV (The Hague, Netherlands); Shell Nederland BV (The Hague); and Shell Nederland Chemie BV (Rotterdam, Netherlands) (represented initially by: T. Snoep and J. Brockhoff, and subsequently by T. Snoep and S. Chamalaun, lawyers)

Defendant: European Commission (represented initially by: M. Kellerbauer, V. Bottka and J. Samnadda, and subsequently by M. Kellerbauer and V. Bottka, Agents)

Re:

Application for annulment, so far as Shell Petroleum NV and Shell Nederland BV are concerned, of Commission Decision C(2006) 5700 final of 29 November 2006 relating to a proceeding under Article 81 [EC] and Article 53 of the EEA Agreement (Case COMP/F/38.638 — Butadiene Rubber and Emulsion Styrene Butadiene Rubber) or, in the alternative, annulment or reduction of the fine imposed on Shell Petroleum, Shell Nederland and Shell Nederland Chemie BV.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Shell Petroleum NV, Shell Nederland BV and Shell Nederland Chemie BV to pay the costs.*

(1) OJ C 82, 14.4.2007.

Judgment of the General Court of 13 July 2011 — ENI v Commission

(Case T-39/07) (1)

(Competition — Agreements, decisions and concerted practices — Market in butadiene rubber and emulsion styrene butadiene rubber — Decision finding an infringement of Article 81 EC — Imputability of the offending conduct — Fines — Gravity of the infringement — Aggravating circumstances)

(2011/C 269/90)

Language of the case: Italian

Parties

Applicant: ENI SpA (Rome, Italy) (represented by: G.M. Roberti and I. Perego, lawyers)

Defendant: European Commission (represented by: V. Di Bucci, G. Conte and V. Bottka, Agents)

Re:

Application for annulment, so far as ENI SpA is concerned, of Commission Decision C(2006) 5700 final of 29 November 2006 relating to a proceeding under Article 81 EC and Article 53 of the EEA Agreement (Case COMP/F/38.638 — Butadiene Rubber and Emulsion Styrene Butadiene Rubber) or, in the alternative, annulment or reduction of the fine imposed on ENI.

Operative part of the judgment

The Court:

1. *Annuls Article 2(c) of Commission Decision C(2006) 5700 final of 29 November 2006 relating to a proceeding under Article 81 EC and Article 53 of the EEA Agreement (Case COMP/F/38.638 — Butadiene Rubber and Emulsion Styrene Butadiene Rubber) in so far as it sets the amount of the fine imposed on ENI SpA at EUR 272,25 million;*

2. *Sets the amount of the fine imposed on ENI at EUR 181,5 million;*

3. *Dismisses the action as to the remainder;*

4. *Orders the parties to bear their own costs.*

(1) OJ C 82, 14.4.2007.