

Appeal brought on 27 May 2013 by European Commission against the judgment of the General Court (Eighth Chamber) delivered on 14 March 2013 in Case T-587/08: Fresh Del Monte Produce, Inc. v European Commission

(Case C-294/13 P)

(2013/C 252/28)

Language of the case: English

Parties

Appellant: European Commission (represented by: A. Biolan, M. Kellerbauer, P.J.O. Van Nuffel, agents)

Other parties to the proceedings: Fresh Del Monte Produce, Inc., Internationale Fruchtimport Gesellschaft Weichert GmbH & Co. KG

Form of order sought

The appellant claims that the Court should:

- Set aside point 1 of the operative part judgment of the General Court of 14 March 2013 in Case T-587/08, Fresh Del Monte Produce Inc. v Commission;
- Give final judgment by setting the amount of the fine for Fresh Del Monte Produce Inc. at EUR 9 800 000;
- Order Fresh Del Monte Produce Inc. to pay the costs of the appeal and such proportion of the costs of the proceedings before the General Court as the Court of Justice considers appropriate.

Pleas in law and main arguments

The Commission submits that the General Court infringed Article 23 of Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty ⁽¹⁾ read together with the Commission notice on immunity from fines and reduction of fines in cartel cases ⁽²⁾ and the principle of effective enforcement of Articles 101 and 102 TFEU, by considering that information supplied to the Commission in response to a request for information must be taken into account for a reduction of the fine as voluntary cooperation having facilitated the Commission's investigation.

In the alternative, the Commission submits that the General Court infringed Article 23 of Regulation No 1/2003 and the duty to state reasons by reducing the fine imposed on Del Monte for Weichert's cooperation during the administrative

procedure although Del Monte and Weichert no longer formed part of the same undertaking at the point in time of Weichert's alleged cooperative conduct.

⁽¹⁾ OJ L 1, p. 1.

⁽²⁾ OJ C 45, p. 3.

Appeal brought on 3 June 2013 by European Commission against the judgment of the General Court (Fifth Chamber) delivered on 20 March 2013 in Case T-92/11: Jørgen Andersen v European Commission

(Case C-303/13 P)

(2013/C 252/29)

Language of the case: English

Parties

Appellant: European Commission (represented by: L. Armati, T. Maxian Rusche, agents)

Other parties to the proceedings: Jørgen Andersen, Kingdom of Denmark, Danske Statsbaner (DSB)

Form of order sought

The appellant claims that the Court should:

- set aside the judgment of the General Court (Fifth Chamber) of 20 March 2013, notified to the Commission on 22 March 2013, in Case T-92/11 Jørgen Andersen v European Commission;

and

- reject the application to annul Commission Decision 2011/3/EU ⁽¹⁾ of 24 February 2010 concerning public transport service contracts between the Danish Ministry of Transport and Danske Statsbaner (Case C 41/08 (ex NN 35/08)); and

- order the applicant at first instance to pay the costs;

alternatively,

- rule that the third plea at first instance is not well founded and refer the case back to the General Court for consideration of the first and second pleas at first instance;
- and reserve the costs of the proceedings at first instance and on appeal.

Pleas in law and main arguments

The Commission advances a single ground of appeal: violation of Articles 108(2) and (3), 288 and 297(1) TFEU, by finding that the Commission applied Regulation (EC) No 1370/2007 ⁽²⁾ retroactively.