



Reports of Cases

Judgment of the General Court (Sixth Chamber) of 8 May 2019 – Lucchini v Commission

(Case T-185/18)

(Competition — Agreements, decisions and concerted practices — Market for concrete reinforcing bars in bars or coils — Decision finding an infringement of Article 65 CS after the expiry of the ECSC Treaty on the basis of Regulation (EC) No 1/2003 — Partial annulment of the Commission decision — Rejection of a request for reimbursement of a fine paid pursuant to a decision annulled in part — Rejection of a request to be allowed to participate in the administrative procedure that was reopened following the partial annulment of the decision — Rights of the defence — Non-existent act — Non-contractual liability — Limitation)

1. *Action for annulment — Admissibility — Dismissal of an action on the substance without ruling on admissibility — Discretion of the Courts of the Union*

(Art. 263 TFEU)

(see para. 24)

2. *Action for annulment — Judgment annulling a measure — Effects — Annulment of a Commission decision finding a breach of the competition rules — Effects in relation to addressees not having brought an action — Lack*

(Arts 101, 263 and 288 TFEU)

(see paras 33, 34)

3. *Action for annulment — Judgment annulling a measure — Scope — Absolute authority of res judicata — Scope — Both operative part and grounds to be taken into account — Annuling judgments not having effects erga omnes*

(Arts 264 and 266 TFEU)

(see paras 35, 36)

4. *Action for annulment — Time-limits — Decision not contested within the prescribed period — Legal certainty — Obligation for the institution concerned to re-examine similar decisions — None*

(Art. 263 TFEU)

(see paras 38-40)

5. *Acts of the institutions — Presumption of validity — Non-existent act — Concept*

(Art. 288 TFEU)

(see paras 44, 45, 48)

6. *Actions for damages — Limitation period — Point from which time starts to run — Liability for an individual measure — Date of appearance of the prejudicial effects of the act*

(Art. 340, 2nd para. TFEU; Statute of the Court of Justice, Art. 46)

(see paras 55-58)

Re:

First, application under Article 263 TFEU seeking annulment of the Commission's letter of 17 January 2018 rejecting the applicant's request to be reimbursed for the fine, in the amount of EUR 14 350 000, that was imposed on it by Commission Decision C(2009) 7492 final of 30 September 2009 concerning an infringement of Article 65 of the ECSC Treaty, in accordance with Article 101 TFEU and Article 53 of the EEA Agreement (Case COMP/37.956 — Reinforcing bars, re-adoption) and of the Commission's letter of 9 March 2018 rejecting the applicant's request to be allowed to participate in the resumed procedure relating to that case and, secondly, application under Article 268 TFEU seeking compensation for the damage allegedly suffered by the applicant as a result of the infringement of Article 41 of the Charter of Fundamental Rights of the European Union committed by the Commission in the procedure leading to the adoption of that decision.

Operative part

The Court:

1. Dismisses the action;
2. Orders Lucchini SpA in AS to pay the costs.