Pleas in law and main arguments

The decision which is the subject of the present action is the same as that in Case T-11/06 *Tabacchi* v *Commission*. As regards the applicant, the decision holds the company Alliance One International jointly liable in its capacity as the ultimate holding company TRANSCATAB.

In support of its claims, the applicant submits that the Commission:

— erred in law in holding Alliance One International liable for the conduct of TRANSCATAB. In particular, the defendant infringed the principles regarding the burden of proof, failed to demonstrate the influence exercised by Alliance One International and, consequently, exceeded the limit of 10 % of turnover.

— Erred in finding the infringement in question to be very serious and not, at most, serious, by reason of the virtually non-existent effect of the agreement on the relevant market, the downstream market and consumers, as well as the limited size of the relevant geographical market.

— Infringed the principles of proportionality and equality in fixing the basic amount of the fine at EUR 10 million.

— Failed to distinguish the conduct in the period 1995 to 1998 from that of the following period and considered TRANSCATAB alone to be liable for the former. Indeed, by holding the applicant liable also for the conduct from 1999 to 2002, the Commission infringed the principle of equality, in so far as it acknowledged as an attenuating circumstance for the associations the fact that the legal context was confused but did not apply the same finding to the processors.

— infringed the principle of *non bis in idem* in that it penalised TRANSCATAB and the other processors once in their capacity as members of the Associazione professionale Trasformatori Tabacchi Italiani, and again as individual processors.

— Erred in failing to apply any of the attenuating circumstances cited by the applicant, such as its cooperation, the failure to perform the agreements, the interruption of those agreements or the existence of a reasonable doubt as to the nature of the infringing conduct.

Action brought on 13 February 2006 — Bruno Gollnisch v European Parliament

(Case T-42/06)

(2006/C 86/73)

Language of the case: French

Parties

Applicant(s): Bruno Gollnisch (Limonest, France) (represented by: W. de Saint Just, lawyer)

Defendant(s): European Parliament

Form of order sought

The applicant(s) claim(s) that the Court should:

— annul the decision of the European Parliament of 13 December 2005 to adopt Report No A6-0376/2005,

— award Mr Gollnisch the sum of EUR 8 000 in compensation for non-material damage,

— further, award the applicant the sum of EUR 4 000 by way of costs incurred for legal advice and the preparation of this action.

Pleas in law and main arguments

By this action, the applicant, a Member of the European Parliament, seeks the annulment of the decision made by the Parliament in plenary sitting on 13 December 2005 to adopt the report of the Committee on Legal Affairs No A6-0376/2005 concerning remarks the applicant made at a press conference and consequently not to defend his immunity and privileges. He also seeks compensation for the damage allegedly suffered as a result of the contested decision.

In support of his application, the applicant relies on several pleas in law alleging inter alia the unlawfulness of the form of the decision of Parliament whose annulment is sought, its inconsistency with general principles of law such as legal certainty and protection of legitimate expectations and procedural irregularities at the time of its adoption. He also submits that the contested decision is contrary to the precedents set by previous decisions of the Committee on Legal Affairs of the European Parliament as regards freedom of expression and *fumus persecutionis* and that it undermines the independence of an elected representative in that, according to the applicant, it is disputed that he spoke in the exercise of his national and European political activities at the press conference in question.

Action brought on 19 February 2006 — Cofira SAC v Commission of the European Communities

(Case T-43/06)

(2006/C 86/74)

Language of the case: Italian

Parties

Applicant: Cofira SAC (Rousset Cedex, France) (represented by: Girolamo Addessi, Leonilda Mari, Daniella Magurno, lawyers)

Defendant: Commission of the European Communities

Form of order sought

The applicant(s) claim(s) that the Court should:

— annul the fine imposed on Cofira SAC;

— impose the fines jointly and severally on all the companies that came into existence upon the demerger of Cofira Sepso;

— reduce the amount of the fine;

— order the Commission to pay the costs.

Pleas in law and main arguments

Article 1 of the contested decision states that certain undertakings, including the applicant, infringed Community competition rules during the period from 24 March 1982 to 26 June 2002 by participating in agreements and concerted practices in the industrial plastic bag sector in Belgium, Germany, Spain, Luxembourg and the Netherlands. According to the defendant, the purpose of those infringements was to fix prices, implement common models, calculate prices, share markets, allocate sales quotas, customers, business and orders, collude in undermining certain invitations to tender and exchange individual information.

In support of its claims, the applicant maintains first and foremost that the decision should not have been addressed to it.

In this regard, it is pointed out that on 27 November 2003 COFIRA SEPSO, which, along with other concerns, was investigated, was split into three companies, one of them being the applicant. COFIRA SAC therefore came into existence after the occurrence of the events which gave rise to the imposition of penalties by the Commission.

The contested decision does not even state the grounds on which the fine was imposed on the applicant alone, when all of the companies which came into existence as a result of the demerger of COFIRA SEPSO should have been required to answer for the wrongful acts alleged.

Nor does the decision state the basis on which the total amount of the fine was calculated, bearing in mind the fact that fines are commensurate to turnover and that at the time of the alleged events the applicant did not have any turnover as it did not exist.

Furthermore, the Commission does not set out the elements of fact which constituted the infringement. In fact, the whole decision is based on the assumption that the meetings between the representatives of the companies amounted, subsequently and in fact, to conduct contrary to Article 81 EC, and that such practices had a significant impact on competition. However, even if the facts relied on by the Commission were accepted, the fifteen year limitation period has expired.

Action brought on 14 February 2006 — Commission v Elliniki Etairia Epikhirimatikis Protovoulias — Hellenic Ventures S.A. — and five other defendants

(Case T-44/06)

(2006/C 86/75)

Language of the case: Greek

Parties

Applicant: Commission of the European Communities (represented by: M. Patakia and by S. Khatzigiannis, lawyer)