

Pleas in law and main arguments

The applicant contests Commission Decision C(2006) 6762 final of 24 January 2007 in Case COMP/F/38.899 — Gas-isolated switchgear. In the contested decision fines were imposed on the applicant and other undertakings for infringement of Article 81 EC and Article 53 of the EEA Agreement. According to the Commission, the applicant took part in a set of agreements and concerted practices concerning the gas-isolated switchgear sector.

The applicant bases its application primarily on breach of Article 81(1) EC, Article 23(2) and (3) of Regulation (EC) No 1/2003⁽¹⁾ and Article 25 of that regulation. In this connection it complains that the fine imposed on it exceeds 10 % of its turnover in the last trading year before the decision. Furthermore, the Commission did not take account of the individual circumstances of the applicant when setting the fine. In addition, the applicant asserts that the Commission incorrectly assessed the duration of the infringement by the applicant. For the period before 16 July 1998 the prosecution was moreover already out of time. Further, the Commission found without cogent proof that until 13 December 2000 the alleged infringement had as its purpose or effect a restriction of competition within the Community. Finally, it is submitted in connection with the first plea in law that the applicant was wrongly accused of having itself taken part in the agreements after 2002.

Second, the applicant submits that the Commission breached essential procedural requirements. In this connection it complains of a breach of the right to be heard.

⁽¹⁾ 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 (OJ L 1, 4.1.2003, p. 1).

Action brought on 17 April 2007 — Siemens Transmission & Distribution and Nuova Magrini Galileo v Commission

(Case T-124/07)

(2007/C 140/54)

Language of the case: German

Parties

Applicants: Siemens Transmission & Distribution SA (Grenoble, France) and Nuova Magrini Galileo SpA (Bergamo, Italy) (represented by H. Wollmann and F. Urlesberger, lawyers)

Defendant: Commission of the European Communities

Form of order sought

- annul Article 1 of the contested decision in so far as it finds that the applicants infringed Article 81 EC and/or Article 53 of the EEA Agreement during the period from 15 April 1988 to 13 December 2000, 1 April 2002 to 9 October 2002, and 21 January 2004 to 11 May 2004;
- annul Article 2 of the contested decision in so far as the applicants are affected;
- in the alternative, reduce the fines imposed on the applicants in Article 2(l) of the decision to an amount not exceeding EUR 2 750 000 for the first and EUR 1 100 000 for the second applicant;
- order the defendant to pay the costs.

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The applicants base their application primarily on breach of Article 81(1) EC, Article 23(2) and (3) of Regulation (EC) No 1/2003⁽¹⁾ and Article 25 of that regulation. In this connection they complain that the fines imposed on them exceed 10 % of their turnover in the last trading year before the decision. Furthermore, the Commission did not take account of the individual circumstances of the applicants when setting the fine. In addition, the applicants assert that the determination of the undertakings together with which they are to be jointly liable and the amounts of the fines imposed on the individual joint debtors are incomprehensible and incorrect. The Commission also exaggerated the duration of the alleged infringement and did not recognise that the limitation period had expired for the predominant part of it. Finally, it is submitted in connection with the first plea in law that the Commission found without cogent proof that until 13 December 2000 the alleged infringement had as its purpose or effect a restriction of competition within the Community.

Second, the applicants submit that the Commission breached essential procedural requirements. In this connection they complain of a breach of the right to be heard.

⁽¹⁾ 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 (OJ L 1, 4.1.2003, p. 1).