

Appeal brought on 14 September 2007 by AEPI A.E. Elliniki Etairia pros Prostasian tis Pnevmatikis Idioktisias against the judgment delivered on 12 July 2007 in Case T-229/05 AEPI A.E. v Commission of the European Communities

(Case C-425/07 P)

(2007/C 269/61)

Language of the case: Greek

Parties

Appellant: AEPI AE Elliniki Etairia pros Prostasian tis Pnevmatikis Idioktisias (represented by: T. Asproyerakas-Trivas, lawyer)

Other party to the proceedings: Commission of the European Communities

Form of order sought

The Court is asked to:

- allow this appeal;
- set aside the contested judgment of 12 July 2007 of the Court of First Instance of the European Communities (Fourth Chamber), under No 328208, in Case T-229/05 AEPI A.E. v Commission of the European Communities in its entirety;
- hear and give judgment itself on our application of 14 June 2005 (under Article 230 EC), No 001/4372, 56(2001) A/3603/2, which was brought before the Court of First Instance of the European Communities against Commission Decision SG-Greffe (2005) D/201832 of 18 April 2005 rejecting our complaint of 22 March 2001 (2001/4372, 56) (2001 A/3603/2), or refer the case back to the Court which delivered the judgment under appeal so that the claims set out therein be allowed
- order the respondent to pay our costs.

Pleas in law and main arguments

The judgment under appeal misinterpreted Articles 81 and 82 EC inasmuch as the Court did not examine whether the contested Commission decision exceeded the limits of its discretion, did not take account of the case-law of the Court of Justice on the matter and did not take into consideration the facts set out in the application which show potential prejudice to intra-Community trade. Lastly, in misinterpreting and misapplying Articles 81 and 82 EC, it was considered that the competition provisions of Community law necessarily require the existence of actual prejudice to intra-Community trade, whereas in fact, on a correct interpretation and application of the above

provisions, potential prejudice suffices to found the infringement.

Action brought on 14 September 2007 — Commission of the European Communities v Ireland

(Case C-427/07)

(2007/C 269/62)

Language of the case: English

Parties

Applicant: Commission of the European Communities (represented by: D. Recchia and D. Lawunmi, Agents)

Defendant: Ireland

The applicant claims that the Court should:

- declare that by failing to adopt, in conformity with Article 2(1) and Article 4 paragraphs (2), (3) and (4) of Council Directive 85/337/EEC ⁽¹⁾ on the assessment of the effects of certain public and private projects on the environment as amended by Council Directive 97/11/EC, all measures to ensure that, before consent is given, projects likely to have significant effects on the environment in the road construction category covered by Class 10(e) of Annex II to Directive 85/337/EEC are made subject to a requirement for development consent and to an assessment with regard to their effects in accordance with Articles 5 to 10 of the Directive, has failed to fulfil its obligations under Council Directive 85/337/EEC
- declare that by failing to adopt the laws, regulations or administrative provisions necessary to comply with Articles 3(1), (3), (4), (5), (6) and (7) and 4(1), (2), (3), (4), (5) and (6) of Directive 2003/35/EC ⁽²⁾ of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directive 85/337/EEC and 96/61/EC or, in any event, by failing to adequately notify such provisions to the Commission, Ireland has failed to fulfil its obligations under Article 6 of that Directive.
- order Ireland to pay the costs.