

Action brought on 4 June 2008 — Gosselin World Wide Moving v Commission

(Case T-208/08)

(2008/C 223/78)

Language of the case: Dutch

Parties

Applicant: Gosselin World Wide Moving (Deurne, Belgium) (represented by: F. Wijckmans, lawyer, and S. De Keer, lawyer)

Defendant: Commission of the European Communities

Form of order sought

- Annul Commission Decision C(2008)926 final of 11 March 2008, notified to the applicant on 25 March 2008, relating to a proceeding under Article 81 EC (Case COMP/38.543 — International removal services), in so far as it concerns the applicant;
- In the alternative, annul Article 1 of the Decision, in so far as it concerns the applicant, inasmuch as it finds a continuous infringement by the applicant from 31 January 1992 until 18 September 2002, and reduce the fine imposed on it in Article 2, in a manner corresponding to that adjusted period of the infringement;
- In the alternative, annul Article 2(e) of the Decision, in so far as it concerns the applicant, on the grounds set out in the second and/or third pleas, and reduce correspondingly the fine imposed on it in Article 2;
- Order the Commission to pay the costs.

Pleas in law and main arguments

The applicant's first plea alleges that the Decision infringes Article 81 EC. The first part of the plea submits that the Commission has not proved that the acts alleged against the applicant are to be classified as an appreciable restriction of competition for the purposes of Article 81 EC. The second part submits that the Commission has not correctly proved that the agreement in which the applicant participated could appreciably affect trade between Member States.

In the alternative, the second plea submits that the Decision infringed Article 23 of Regulation No 1/2003⁽¹⁾, Regulation No 17/62⁽²⁾, and the Guidelines on the method of setting fines⁽³⁾. Those provisions were infringed when the Commission

determined the gravity of the infringement, its duration, the value of turnover with regard to setting the basic amount of the fine, and rejected the existence of any mitigating circumstances for the applicant for the purposes of the fine.

In the alternative, the third plea alleges breach of the principle of equal treatment, in particular when the Commission determined the gravity of the infringement and the value of relevant turnover for the purposes of the fine.

⁽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 (Text with EEA relevance) (OJ 2003 L 1, p. 1).

⁽²⁾ Council Regulation No 17 : First Regulation implementing Articles 85 and 86 of the Treaty (OJ, English Special Edition, 1962, p. 87).

⁽³⁾ Guidelines on the method of setting fines imposed pursuant to Article 23(2)(a) of Regulation No 1/2003 (Text with EEA relevance) (OJ 2006 C 210, p. 2).

Action brought on 6 June 2008 — Strack v Commission

(Case T-221/08)

(2008/C 223/79)

Language of the case: German

Parties

Applicant: Guido Strack (Cologne, Germany) (represented by: H. Tettenborn, lawyer)

Defendant: Commission of the European Communities

Form of order sought

- annul the decisions, particularly the decision of 19 May 2008, adopted by the Commission — either actually or in the form of a deemed refusal under Article 8(3) of Regulation (EC) No 1049/2001 — in the context of the processing of the applicant's application for access to documents of 18 January 2008 and 19 January 2008 and his confirmatory application of 22 February 2008, 18 April 2008 and, in particular, 21 April 2008, in so far as they refuse those applications either in part or in full;