

12. Twelfth plea in law, alleging erroneous appraisal of fact, insofar as the Civil Service Tribunal held that the contested appraisal report was not vitiated by a manifest error of assessment as to the appellant's efficiency in terms of workload.
13. Thirteenth plea in law, alleging erroneous legal classification of fact, insofar as the Civil Service Tribunal considered proportional the criticism in the contested appraisal report, even though the respondent had not, during the appraisal period, brought to the appellant's notice the supposed problems in his conduct.
14. Fourteenth plea in law, alleging erroneous appraisal of fact, insofar as the Civil Service Tribunal viewed the appellant's workload as being less significant than it actually was.

- Annul Article 2(2)(g) of the contested decision or alternatively reduce the fine as the General Court finds appropriate;
- Annul Article 2(2)(h) of the contested decision or alternatively annul Article 2(2)(h) in so far as Toshiba is held jointly and severally held liable or alternatively reduce the fine as the General Court finds appropriate;
- Make such other order as may be appropriate in the circumstances of the case;
- Award the applicant its costs.

### Pleas in law and main arguments

In support of the action, the applicant relies on six pleas in law.

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### Action brought on 20 February 2013 — Toshiba v Commission

(Case T-104/13)

(2013/C 114/63)

*Language of the case: English*

#### Parties

*Applicant:* Toshiba Corp. (Tokyo, Japan) (represented by: J. MacLennan, Solicitor, J. Jourdan, A. Schulz and P. Berghe, lawyers)

*Defendant:* European Commission

#### Form of order sought

The applicant claims that the Court should:

- Annul Article 1(2)(d) of the Commission's Decision of 5 December 2012, in Case COMP/39.437 — *TV and Computer Monitor Tubes*;
- Annul Article 1(2)(e) of the Commission's Decision of 5 December 2012, in Case COMP/39.437 — *TV and Computer Monitor Tubes*;

1. First plea in law, alleging that the contested decision erred in finding Toshiba Corporation liable for the infringement of Article 101 TFEU for the period 16 May 2000 until 11 April 2002.
  2. Second plea in law, alleging that the contested decision erred in finding Toshiba Corporation liable for the infringement of Article 101 TFEU for the period 12 April 2002 until 31 March 2003;
  3. Third plea in law, alleging that the contested decision erred in finding Toshiba Corporation liable for the infringement of Article 101 TFEU for the period 1 April 2003 until 12 June 2006.
  4. Fourth plea in law, alleging that the contested decision erred in finding Toshiba Corporation jointly and severally liable for Matsushita Toshiba Picture Display Co., Ltd. 's ('MTPD') participation in the infringement for the period 1 April 2003 until 12 June 2006.
  5. Fifth plea in law, alleging, in the alternative to the fourth plea, that the contested decision erred in finding MTPD liable for participating in the infringement for the period 1 April 2003 until 12 June 2006.
  6. Sixth plea in law, alleging that the contested decision erred in imposing a fine in Articles 2(2)(g) and 2(2)(h) or, in the alternative, erred in calculating these fines.
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