

Judgment of the General Court of 16 December 2015 — British Airways v Commission(Case T-48/11)⁽¹⁾

(Competition — Agreements, decisions and concerted practices — European airfreight market — Agreements and concerted practices in respect of several elements of the pricing of airfreight services (imposition of fuel and security surcharges, refusal to pay commission on surcharges) — Article 101 TFEU, Article 53 of the EEA Agreement and Article 8 of the Agreement between the European Community and Switzerland on Air Transport — Obligation to state reasons)

(2016/C 048/41)

Language of the case: English

Parties

Applicant: British Airways plc (Harmondsworth, United Kingdom) (represented initially by K. Lasok QC, R. O'Donoghue, Barrister, and B. Louveaux, Solicitor, and subsequently by R. O'Donoghue, B. Louveaux and J. Turner QC)

Defendant: European Commission (represented initially by N. Khan, S. Noë and N. von Lingen, acting as Agents, and initially by B. Doherty, and subsequently by A. Bates, Barristers, and represented subsequently by N. Khan and A. Dawes, acting as Agents, and by A. Bates)

Re:

Application for partial annulment of Commission Decision C(2010) 7694 final of 9 November 2010 relating to a proceeding under Article 101 TFEU, Article 53 of the EEA Agreement and Article 8 of the Agreement between the European Community and the Swiss Confederation on Air Transport (Case COMP/39258 — Airfreight), in so far as it concerns the applicant.

Operative part of the judgment

The Court:

1. Annuls Commission Decision C(2010) 7694 final of 9 November 2010 relating to a proceeding under Article 101 TFEU, Article 53 of the EEA Agreement and Article 8 of the Agreement between the European Community and the Swiss Confederation on Air Transport (Case COMP/39258 — Airfreight), in so far as, in that decision, the European Commission, first, considered that British Airways plc (i) participated in the refusal to pay commission, (ii) infringed Article 101 TFEU, Article 53 of the Agreement on the European Economic Area (EEA) and Article 8 of the Agreement between the European Community and the Swiss Confederation on Air Transport between 22 January 2001 and 1 October 2001, and (iii) participated in infringements of those provisions for freight services performed from Hong Kong (China), Japan, India, Thailand, Singapore, South Korea and Brazil, and, secondly, imposed a fine on it;
2. Orders the Commission to bear its own costs and to pay those of British Airways.

⁽¹⁾ OJ C 80, 12.3.2011.