

Second, the General Court erred in law by misapplying the rules on equal treatment in considering that the Commission was entitled to apply Point 18 of the Fining Guidelines to all addressees of the Commission's decision in 'Power Cables' despite the fundamentally different situations of the parties. The European producers participated in a worldwide market sharing cartel as well as a European cartel, whereas the Japanese and Korean producers (including the appellant) participated in worldwide market sharing cartel only. In light of the breach of equal treatment that arises from the blanket application of Point 18 of the Fining Guidelines to all addressees which rewarded the European producers with a reduction to their respective values of sales (and hence their fines) of 44 %, and further to the Court's judgment in Case 580/12 P, *Guardian Industries and Guardian Europe v Commission*, the appellant requests that the Court rectify the violation by granting a reduction in the fine imposed on the appellant of 44 %.

⁽¹⁾ Commission Decision of 2 April 2014 relating to a proceeding under Article 101 of the Treaty on the Functioning of the European Union and Article 53 of the EEA Agreement (Case AT.39610 — Power Cables) (notified under document C(2014) 2139 final) (OJ 2014, C 319, p. 10)

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

**Appeal brought on 20 September 2018 by Fujikura Ltd against the judgment of the General Court
(Eighth Chamber) delivered on 12 July 2018 in Case T-451/14: Fujikura v Commission**

(Case C-590/18 P)

(2018/C 427/29)

Language of the case: English

Parties

Appellant: Fujikura Ltd (represented by: L. Gyselen, lawyer)

Other parties to the proceedings: European Commission, Viscas Corp.

Form of order sought

The appellant claims that the Court should:

- set aside the General Court's judgment in so far as it upheld the plea in law alleging an infringement of the principles of proportionality and equal treatment with regard to the fine imposed upon it;
- give final judgment in accordance with Article 61, first paragraph, second sentence, of its Statute by:
 - annulling Article 2(o) of the Commission's decision ⁽¹⁾ of 2 April 2014 imposing a fine of EUR 8 152 000 upon Fujikura Ltd.; and
 - reducing this fine by 44 % to EUR 4 565 120;
- order the costs of the proceedings to be borne by the Commission.

Pleas in law and main arguments

The General Court erred in law by validating the Commission's approach to apply Point 18 of its 2006 Guidelines ⁽²⁾ as if the entire infringement only covered the 'worldwide part' of the cartel and did not have an 'intra-EEA part' involving only the European suppliers.

As a result, the Commission determined the notional values of sales for the cartel participants in a way that significantly undervalued the role of the European suppliers and overvalued the role of the Asian suppliers, including Fujikura, in this infringement.

- ⁽¹⁾ Commission Decision of 2 April 2014 relating to a proceeding under Article 101 of the Treaty on the Functioning of the European Union and Article 53 of the EEA Agreement (Case AT.39610 — Power Cables) (notified under document C(2014) 2139 final) (OJ 2014, C 319, p. 10)
- ⁽²⁾ Guidelines on the method of setting fines imposed pursuant to Article 23(2)(a) of Regulation No 1/2003 (OJ 2006, C 210, p. 2)

Appeal brought on 21 September 2018 by the Republic of Austria against the judgment of the General Court (Fifth Chamber) delivered on 12 July 2018 in Case T-356/15, Republic of Austria v European Commission

(Case C-594/18 P)

(2018/C 427/30)

Language of the case: German

Parties

Appellant: Republic of Austria (represented by: G. Hesse, acting as Agent)

Other parties to the proceedings: European Commission, Grand Duchy of Luxembourg, Czech Republic, French Republic, Hungary, Republic of Poland, Romania, Slovak Republic, United Kingdom of Great Britain and Northern Ireland

Form of order sought

The appellant claims that the Court should:

- set aside in full the judgment of the General Court of 12 July 2018 in Case T-356/15, *Republic of Austria v European Commission*;
- grant, in its entirety, the application at first instance for annulment of Commission Decision (EU) 2015/658 of 8 October 2014 on the aid measure SA.34947 (2013/C) (ex 2013/N) which the United Kingdom is planning to implement for support to the Hinkley Point C nuclear power station; ⁽¹⁾
- order the European Commission to pay the costs.

Grounds of appeal and main arguments

The appellant relies on five grounds of appeal.

First ground of appeal, alleging that there is no objective in the common interest of the European Union

The judgment under appeal appears to be unlawful inasmuch as, contrary to the position adopted by the General Court, the construction of a new nuclear power station does not constitute an objective in the interest of the European Union; consequently the fourth plea in law, in conjunction with the fifth part of the ninth plea in law, in which it was claimed that the promotion of nuclear energy does not correspond to a common interest, which is necessary for approval of aid in accordance with Article 107(3)(c) TFEU, should not have been rejected.

Second ground of appeal, alleging misapplication of Article 107(3)(c) TFEU

The aid measures were wrongly found to be compliant with Article 107(3)(c) TFEU. The judgment under appeal incorrectly defines the relevant economic area within the meaning of Article 107(3)(c) TFEU and wrongly omits to assess the failure of that market. The first plea in law and the first and second parts of the ninth plea in law, which related to the definition of the market and the market failure, should therefore not have been rejected.