

GENERAL COURT

Judgment of the General Court of 21 March 2012 — Ireland and Others v Commission

(Joined Cases T-50/06 RENV, T-56/06 RENV, T-60/06 RENV, T-62/06 RENV and T-69/06 RENV) ⁽¹⁾

(State aid — Directive 92/81/EEC — Excise duty on mineral oils — Mineral oils used as fuel for alumina production — Exemption from excise duty — Whether the exemption complies with a Council decision of authorisation under Article 8(4) of Directive 92/81 — Presumption of legality attaching to European Union measures — Legal certainty — Sound administration)

(2012/C 133/39)

Languages of the case: English, French and Italian

Parties

Applicants: Ireland (represented initially by D. O'Hagan and subsequently by E. Creedon, acting as Agents, and P. McGarry, Barrister) (Case T-50/06 RENV); French Republic (represented by G. de Bergues and J. Gstalter, acting as Agents) (Case T-56/06 RENV); Italian Republic (represented by G. Aiello, G. De Bellis and S. Fiorentino, avvocati dello Stato) (Case T-60/06 RENV); Eurallumina SpA (Portoscuso, Italy) (represented by R. Denton and L. Martin Alegi, Solicitors) (Case T-62/06 RENV); and Aughinish Alumina Ltd (Askeaton, Ireland) (represented by J. Handoll and C. Waterson, Solicitors) (Case T-69/06 RENV)

Defendant: European Commission (represented by: V. Di Bucci, N. Khan, D. Grespan and K. Walkerová, acting as Agents)

Re:

Application for annulment of Commission Decision 2006/323/EC of 7 December 2005 concerning the exemption from excise duty on mineral oils used as fuel for alumina production in Gardanne, in the Shannon region and in Sardinia respectively implemented by France, Ireland and Italy (OJ 2006 L 119, p. 12).

Operative part of the judgment

The Court:

1. Annuls Commission Decision 2006/323/EC of 7 December 2005 concerning the exemption from excise duty on mineral oils used as fuel for alumina production in Gardanne, in the Shannon region and in Sardinia respectively implemented by France, Ireland and Italy, in so far as it finds, or is based on the finding, that the exemptions from excise duty on mineral oils used as fuel for alumina production granted by the French Republic, Ireland and the Italian Republic until 31 December 2003 constitute State aid within the meaning of Article 87(1) EC and in so far as it orders the French Republic, Ireland and the Italian Republic to take all measures necessary to recover those exemptions from the beneficiaries to the extent that the latter did not pay excise duty at the rate of at least EUR 13,01 per 1 000 kg of heavy fuel oils;

2. Orders the European Commission to bear its own costs and to pay the costs incurred by Ireland in Case T-50/06 RENV, by the French Republic in Case T-56/06 RENV, by the Italian Republic in Case T-60/06 RENV, by Eurallumina SpA in Case T-62/06 RENV and by Aughinish Alumina Ltd in Case T-69/06 RENV, including the costs of the application for interim measures in Case T-69/06 R.

⁽¹⁾ OJ C 86, 8.4.2006.

Judgment of the General Court of 21 March 2012 — Marine Harvest Norway and Alsaker Fjordbruk v Council

(Case T-113/06) ⁽¹⁾

(Dumping — Imports of salmon originating in Norway — Definition of the Community industry — Like product — Composition of the sample of Community producers)

(2012/C 133/40)

Language of the case: English

Parties

Applicants: Marine Harvest Norway AS, successor in law to Fjord Seafood Norway AS (Bergen, Norway) and Alsaker Fjordbruk AS (Onarheim, Norway) (represented by: J.M. Juuhl-Langseth and P. Dyrberg, lawyers)

Defendant: Council of the European Union (represented by: J.-P. Hix and B. Driessen, acting as Agents, and by G. Berrisch, lawyer)

Intervener in support of the defendant: European Commission (represented: initially by P. Stancanelli and K. Talabér-Ritz, and subsequently by K. Talabér-Ritz, T. Scharf and H. van Vliet, acting as Agents, and by E. McGovern, Barrister)

Re:

Application for annulment of Council Regulation (EC) No 85/2006 of 17 January 2006 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of farmed salmon originating in Norway (OJ 2006 L 15, p. 1)

Operative part of the judgment

The Court:

1. Annuls Council Regulation (EC) No 85/2006 of 17 January 2006 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of farmed salmon originating in Norway in so far as it concerns Marine

Harvest Norway AS, legal successor to Fjord Seafood Norway AS, for the anti-dumping duties applied to imports originating from the latter until 18 September 2007, and Alsaker Fjordbruk AS;

2. Dismisses the action as to the remainder;
3. Orders the Council of the European Union to bear its own costs and to pay those of Marine Harvest Norway, legal successor to Fjord Seafood Norway, and Alsaker Fjordbruk;
4. Orders the European Commission to bear its own costs.

(¹) OJ C 131, 3.6.2006.

Judgment of the General Court of 21 March 2012 — Fiskeri og Havbruksnæringens Landsforening and Others v Council

(Case T-115/06) (¹)

(Dumping — Imports of salmon originating in Norway — Lesser duty rule — Calculation of minimum import prices and fixed duties)

(2012/C 133/41)

Language of the case: English

Parties

Applicants: Fiskeri og Havbruksnæringens Landsforening (Oslo, Norway); Norske Sjømatbedrifters Landsforening (Trondheim, Norway); Salmar Farming AS (Kverva, Norway); Hydroteck AS (Kristiansund, Norway); Hallvard Lerøy AS (Bergen, Norway); and Lerøy Midnor AS (Hestvika, Norway) (represented by: B. Servais and T. Paulsen, lawyers)

Defendant: Council of the European Union (represented by: J.-P. Hix and B. Driessen, acting as Agents)

Intervener in support of the defendant: European Commission (represented: initially by P. Stancanelli and K. Talabér-Ritz, and subsequently by K. Talabér-Ritz, T. Scharf and H. van Vliet, acting as Agents, and by E. McGovern, Barrister)

Re:

Application for annulment of Council Regulation (EC) No 85/2006 of 17 January 2006 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of farmed salmon originating in Norway (OJ 2006 L 15, p. 1)

Operative part of the judgment

The Court:

1. Annuls Council Regulation (EC) No 85/2006 of 17 January 2006 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of farmed salmon originating in Norway in so far as it concerns the

Fiskeri og Havbruksnæringens Landsforening, the Norske Sjømatbedrifters Landsforening, Salmar Farming AS, Hydroteck AS, Hallvard Lerøy AS and Lerøy Midnor AS;

2. Dismisses the action as to the remainder;
3. Orders the Council of the European Union to bear its own costs and to pay those of the Fiskeri og Havbruksnæringens Landsforening, the Norske Sjømatbedrifters Landsforening, Salmar Farming, Hydroteck, Hallvard Lerøy and Lerøy Midnor;
4. Orders the European Commission to bear its own costs.

(¹) OJ C 143, 17.6.2006.

Judgment of the General Court of 21 March 2012 — Volkswagen v OHIM — Suzuki Motor (SWIFT GTi)

(Case T-63/09) (¹)

(Community Trade Mark — Opposition proceedings — Application for Community word mark SWIFT GTi — Earlier international and national marks GTI — Relative grounds for refusal — Similarity of the goods — Article 8(1)(b) of Regulation (EC) No 40/94 (now Article 8(1)(b) of Regulation (EC) No 207/2009) — Assessment of the likelihood of confusion — Rejection of the opposition)

(2012/C 133/42)

Language of the case: German

Parties

Applicant: Volkswagen AG (Wolfsburg, Germany) (represented by: H.-P. Schrammek, C. Drzymalla and S. Risthaus, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: G. Schneider, Agent)

Other party to the proceedings before the Board of Appeal of OHIM: Suzuki Motor Corp. (Shizuoka-ken, Japan)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 9 December 2008 (Case R 749/2007-2) relating to opposition proceedings between Volkswagen AG and Suzuki Motor Corp.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Volkswagen AG to pay the costs.

(¹) OJ C 102, 1.5.2009.