

GENERAL COURT

Judgment of the General Court (Sixth Chamber) of 13 September 2010 — Éditions Jacob v Commission

(Case T-279/04) ⁽¹⁾

(Competition — Concentrations — French-language publishing — Decision declaring the concentration compatible with the common market subject to sale of assets — Action for annulment brought by an unsuccessful prospective purchaser — Obligation to state reasons — Fraud — Error of law — Manifest error of assessment — Regulation (EEC) No 4064/89)

(2010/C 301/29)

Language of the case: French

Parties

Applicant: Éditions Odile Jacob SAS (Paris, France) (represented by: O. Fréget, W. van Weert, I. de Seze, M. Struys, M. Potel and L. Eskenazi, lawyers)

Defendant: European Commission (represented by: initially A. Whelan, O. Beynet, A. Bouquet and F. Arbault, then A. Bouquet and O. Beynet, acting as Agents)

Intervener in support of the defendant: Lagardère SCA (Paris) (represented by: initially A. Winckler and I. Girgenson, then A. Winckler, F. de Bure and J.-B. Pinçon, lawyers)

Re:

Application for the annulment of Commission Decision 2004/422/EC of 7 January 2004 declaring a concentration to be incompatible with the common market and the functioning of the EEA Agreement (Case COMP/M.2978 — Lagardère/Natexis/VUP) (OJ 2004 L 125, p. 54).

Operative part of the judgment

The General Court:

1. dismisses the action;
2. orders Éditions Odile Jacob SAS to bear its own costs and to pay the costs of the European Commission and Lagardère SCA.

⁽¹⁾ OJ C 262, of 23.10.2004.

Judgment of the General Court (Sixth Chamber) of 13 September 2010 — Éditions Jacob v Commission

(Case T-452/04) ⁽¹⁾

(Competition — Concentrations — French-language publishing — Decision declaring the concentration compatible with the common market subject to sale of assets — Decision to approve the purchaser of the assets sold — Action for annulment brought by an unsuccessful prospective purchaser — Trustee's independence — Regulation (EEC) No 4064/89)

(2010/C 301/30)

Language of the case: French

Parties

Applicant: Éditions Odile Jacob SAS (Paris, France) (represented by: W. van Weert, O. Fréget, M. Struys, M. Potel and L. Eskenazi, lawyers)

Defendant: European Commission (represented by: initially A. Whelan, O. Beynet, A. Bouquet and F. Arbault, then A. Bouquet and O. Beynet, acting as Agents)

Interveners in support of the defendant: Wendel Investissement SA (Paris) (represented by: initially C. Couadou and M. Trabucchi, then M. Trabucchi and F. Gordon, lawyers); and Lagardère SCA (Paris) (represented by: initially A. Winckler, I. Girgenson and S. Sorinas Jimeno, then A. Winckler, F. de Bure and J.-B. Pinçon, lawyers)

Re:

Application for the annulment of Commission Decision (2004) D/203365 of 30 July 2004 relating to the approval of Wendel Investissement as purchaser of the assets sold in accordance with Commission Decision 2004/422/EC of 7 January 2004 declaring a concentration to be incompatible with the common market and the functioning of the EEA Agreement (Case COMP/M.2978 — Lagardère/Natexis/VUP) (OJ 2004 L 125, p. 54).

Operative part of the judgment

The General Court:

1. annuls Commission Decision (2004)D/203365 of 30 July 2004 on the approval of Wendel Investissement SA as purchaser of the assets sold in accordance with Commission Decision 2004/422/EEC of 7 January 2004 declaring a concentration compatible with the common market and the functioning of the EEA Agreement (Case COMP/M.2978 — Lagardère/Natexis/VUP);
2. orders the European Commission and Lagardère SCA to bear their own costs and to pay the costs incurred by Éditions Odile Jacob SAS;

3. orders *Wendel Investissement* to bear its own costs.

(¹) OJ C 45, of 19.2.2005.

Judgment of the General Court of 13 September 2010 — Greece and Others v Commission

(Joined Cases T-415/05, T-416/05 and T-423/05) (¹)

(State aid — Aviation Sector — Aid linked to the restructuring and privatisation of the Greek national airline — Decision declaring the aid incompatible with the common market and requiring its recovery — Financial continuity between two companies — Identification of the effective recipient of aid for the purposes of its recovery — Criterion of the private operator — Compatibility of the aid with the common market — Obligation to state reasons for the decision)

(2010/C 301/31)

Language of the case: Greek

Parties

Applicants: Hellenic Republic (represented by: A. Samoni-Rantou and P. Mylonopoulos, Agents) (Case T-415/05); Olympiakes Aerogrammes AE (Kallithéa, Greece) (represented by: V. Christianos, lawyer) (Case T-416/05); and Olympiaki Aeroporia Ypiresies AE (Athens, Greece) (represented by: P. Anestis, S. Mavroghenis, lawyers, S. Jordan and T. Soames, Solicitors, and D. Geradin, lawyer) (Case T-423/05)

Defendant: European Commission (represented by: D. Triantafyllou and T. Scharf, Agents)

Intervener in support of the defendant: Aeroporia Aigaiou Aeroporiki AE (Athens) (represented by: N. Keramidas and, in Case T-416/05, also by N. Korogiannakis, I. Dryllerakis and E. Dryllerakis, lawyers) (Cases T-416/05 and T-423/05)

Re:

Application for annulment of Commission Decision C(2005) 2706 final of 14 September 2005 on State aid for Olympiaki Aeroporia Ypiresies AE (C 11/2004 (ex NN 4/2003) — Olympic Airways — Restructuring and Privatisation)

Operative part of the judgment

The Court:

1. Annuls Article 1(1) of Commission Decision C(2005) 2706 final of 14 September 2005 on State aid for Olympiaki Aeroporia Ypiresies AE (C 11/2004 (ex NN 4/2003) — Olympic Airways — Restructuring and Privatisation);

2. Annuls, in part, Article 1(2) of Decision C(2005) 2706 final insofar as it relates to the amount corresponding to the value of all the intangible assets entered in the conversion balance-sheet of Olympiaki Aeroporia Ypiresies as goodwill, to the value of the aircraft transferred to Olympiakes Aerogrammes AE and to the revenue expected from the sale of two aircraft still entered in the balance-sheet of Olympiaki Aeroporia Ypiresies;

3. Annuls Article 2 of Decision C(2005) 2706 final insofar as it relates to the measures in question in Article 1(1) and (2), to the extent that those provisions are annulled;

4. Dismisses the remainder of the actions;

5. Orders each of the parties to bear its own costs, including those incurred in connection with the proceedings for interim relief.

(¹) OJ C 22, 28.1.2006.

Judgment of the General Court of 13 September 2010 — Trioplast Wittenheim v Commission

(Case T-26/06) (¹)

(Competition — Agreements, decisions and concerted practices — Market for industrial plastic sacks — Decision finding an infringement of Article 81 EC — Duration of the infringement — Fines — Seriousness of the infringement — Mitigating circumstances — Cooperation during the administrative procedure — Proportionality)

(2010/C 301/32)

Language of the case: Swedish

Parties

Applicant: Trioplast Wittenheim SA (Wittenheim, France) (represented by: T. Petersson and O. Larsson, lawyers)

Defendant: European Commission (represented by: initially F. Castillo de la Torre, P. Hellström and V. Bottka, subsequently F. Castillo de la Torre, L. Parpala and V. Bottka, acting as Agents)

Re:

Application for partial annulment of Commission Decision C(2005) 4634 final of 30 November 2005 relating to a procedure under Article 81 [EC] (Case COMP/F/38.354 — Industrial sacks) concerning an agreement in the market for plastic industrial sacks and, in the alternative, an application for reduction of the amount of the fine imposed on the applicant.