

**Judgment of the General Court of 16 November 2011 —
Groupe Gascogne v Commission**

(Case T-72/06) ⁽¹⁾

(Competition — Agreements, decisions and concerted practices — Plastic industrial bags sector — Decision finding an infringement of Article 81 EC — Imputability of the unlawful conduct — Fines — Maximum limit of 10 % of turnover — Proportionality)

(2012/C 6/15)

Language of the case: French

Parties

Applicant: Groupe Gascogne SA (St Paul-lès-Dax, France) (represented initially by: C. Lazarus, then by P. Hubert and E. Durand, lawyers)

Defendant: European Commission (represented by: F. Castillo de la Torre and F. Arbault, then by F. Castillo de la Torre and N. von Lingen, acting as Agents)

Re:

Application for annulment in part of Commission Decision C(2005) 4634 final of 30 November 2005 relating to a proceeding under Article 81 [EC] (Case COMP/F/38.354 — Industrial bags), concerning a cartel on the market for plastic industrial bags, and application for amendment of that decision.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Groupe Gascogne SA to pay the costs.

⁽¹⁾ OJ C 96, 22.4.2006.

**Judgment of the General Court of 16 November 2011 —
ASPLA v Commission**

(Case T-76/06) ⁽¹⁾

(Competition — Agreements, decisions and concerted practices — Plastic industrial bags sector — Decision finding an infringement of Article 81 EC — Exchange of individualised information — Fixing of prices and sales quotas by geographic area — Allocation of customers — Concerted bidding in response to invitations to tender — Single and continuous infringement — Extent of the infringement — Definition of the product market and the geographic market — Guidelines for the calculation of fines — Principles of equal treatment and proportionality — Aggravating and attenuating circumstances — Ceiling of 10 % of turnover)

(2012/C 6/16)

Language of the case: Spanish

Parties

Applicant: Plásticos Españoles, SA (ASPLA) (Torrelavega, Spain) (represented initially by: E. Garayar Gutiérrez and A. García

Castillo, then by E. Garayar Gutiérrez, M. Troncoso Ferrer and C. Ruixó Claramunt, lawyers)

Defendant: European Commission (represented by: F. Castillo de la Torre, acting as Agent)

Re:

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

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Plásticos Españoles, SA (ASPLA) to pay the costs.

⁽¹⁾ OJ C 108, 6.5.2006.

**Judgment of the General Court of 16 November 2011 —
Álvarez v Commission**

(Case T-78/06) ⁽¹⁾

(Competition — Agreements, decisions and concerted practices — Plastic industrial bags sector — Decision finding an infringement of Article 81 EC — Concept of undertaking — Imputability of the unlawful conduct — Presumption of innocence)

(2012/C 6/17)

Language of the case: Spanish

Parties

Applicant: Armando Álvarez, SA (Madrid, Spain) (represented initially by: E. Garayar Gutiérrez and A. García Castillo, then by E. Garayar Gutiérrez, M. Troncoso Ferrer and C. Ruixó Claramunt, lawyers)

Defendant: European Commission (represented by: F. Castillo de la Torre, acting as Agent)

Re:

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

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Armando Álvarez, SA to pay the costs.

(¹) OJ C 121, 20.5.2006.

Judgment of the General Court of 16 November 2011 — Sachsa Verpackung v Commission

(Case T-79/06) (¹)

(Competition — Agreements, decisions and concerted practices — Plastic industrial bags sector — Decision finding an infringement of Article 81 EC — Price fixing — Allocation of sales quotas by geographic area — Allocation of customers — Exchange of individualised information — Proof of the infringement — Duration of the infringement — Fines — Gravity of the infringement — Proportionality — Attenuating circumstances — Follow-my-leader role)

(2012/C 6/18)

Language of the case: French

Parties

Applicant: Sachsa Verpackung GmbH (Wieda, Germany) (represented by: F. Puel and L. François-Martin, lawyers)

Defendant: European Commission (represented initially by: F. Castillo de la Torre and F. Arbault, then by F. Castillo de la Torre and N. von Lingen, acting as Agents)

Re:

Application for annulment in part of Commission Decision C(2005) 4634 final of 30 November 2005 relating to a proceeding under Article 81 [EC] (Case COMP/F/38.354 — Industrial bags), concerning a cartel on the market for plastic industrial bags, and, in the alternative, for amendment of that decision.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Gascogne Sack Deutschland GmbH to pay the costs.

(¹) OJ C 96, 22.4.2006.

Judgment of the General Court of 16 November 2011 — Buffalo Milke Automotive Polishing Products v OHIM — Werner & Mertz (BUFFALO MILKE Automotive Polishing Products)

(Case T-308/06) (¹)

(Community trade mark — Opposition proceedings — Application for Community figurative mark BUFFALO MILKE Automotive Polishing Products — Earlier national figurative mark BÚFALO — Production of evidence for the first time before the Board of Appeal — Discretion granted by Article 74(2) of Regulation (EC) No 40/94 (now Article 76(2) of Regulation (EC) No 207/2009) — Genuine use of the earlier mark — Article 43(2) and (3) of Regulation No 40/94 (now Article 42(2) and (3) of Regulation No 207/2009))

(2012/C 6/19)

Language of the case: English

Parties

Applicant: Buffalo Milke Automotive Polishing Products, Inc. (Pleasanton, California, United States) (represented by: F. de Visscher, E. Cornu and D. Moreau, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM intervening before the General Court: Werner & Mertz GmbH (Mainz, Germany) (represented initially by M. Thewes and V. Wiot, and subsequently by M. Thewes and P. Reuter, lawyers)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 8 September 2006 (Case R 1094/2005-2), relating to opposition proceedings between Werner & Mertz GmbH and Buffalo Milke Automotive Polishing Products, Inc.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Buffalo Milke Automotive Polishing Products, Inc. to pay the costs.

(¹) OJ C 326, 30.12.2006.