

*Other parties to the proceedings:* Schneider Electric SA (represented by: M. Pittie and A. Winckler, avocats), Federal Republic of Germany, French Republic

#### Re:

Appeal against the judgment of the Court of First Instance (Fourth Chamber — Extended Composition) in Case T-351/03 *Schneider Electric SA v Commission*, by which the Court of First Instance ordered the European Community to make good, first, the expenses incurred by Schneider Electric in respect of its participation in the resumed merger control procedure which followed the delivery on 22 October 2002 of the judgments of the Court of First Instance in *Schneider Electric v Commission* (Case T-310/01 and Case T-77/02), and, second, two thirds of the loss sustained by Schneider Electric as a result of the reduction in the transfer price of Legrand SA, which Schneider Electric had to concede to the transferee in exchange for the postponement of the effective date of sale of Legrand until 10 December 2002 — Conditions for the Community to incur non-contractual liability — Concepts of wrongful act, damage and direct causal link between the wrongful act and the damage suffered — ‘Sufficiently serious’ breach of Community law vitiating the procedure for examination of the compatibility of a concentration with the common market.

#### Operative part of the judgment

*The Court:*

1. Sets aside the judgment of the Court of First Instance of 11 July 2007 in Case T-351/03 *Schneider Electric v Commission* in so far as it:
  - ordered the European Community to make good two thirds of the loss claimed by Schneider Electric SA as a result of the reduction in the transfer price of Legrand SA, which Schneider Electric conceded to the transferee in exchange for the postponement of the effective date of sale until 10 December 2002;
  - ordered the amount of that head of loss to be assessed by an expert;
  - awarded interest on the compensation corresponding to that head of loss;
2. Dismisses the remainder of the appeal;
3. Orders the parties to communicate to the Court of Justice of the European Communities, within the period of three months from delivery of this judgment, the assessment of the loss represented by the costs incurred by Schneider Electric SA as a result of its participation in the resumed merger control procedure which followed delivery of the judgments of the Court of First Instance of the European Communities of 22 October 2002 in Cases T-310/01 and T-77/02 *Schneider Electric v Commission*, the assessment to be jointly agreed in accordance with the procedure set out in paragraph 216 of this judgment;
4. Failing such agreement, orders the parties to submit to the Court of Justice of the European Communities, within the same period, their proposed figures;

5. Dismisses the remainder of the action brought by Schneider Electric SA;

6. Orders Schneider Electric SA to pay, in addition to its own costs relating to the proceedings at first instance and on appeal, two thirds of the costs incurred by the Commission of the European Communities in both sets of proceedings.

(<sup>1</sup>) OJ C 22, 26.1.2008.

#### Judgment of the Court (Sixth Chamber) of 16 July 2009 — SELEX Sistemi Integrati SpA v Commission of the European Communities

(Case C-481/07 P) (<sup>1</sup>)

*(Appeal — Non-contractual liability of the Community — Commission Decision rejecting a complaint brought against Eurocontrol — Actual and certain damage)*

(2009/C 220/07)

*Language of the case: Italian*

#### Parties

*Appellant:* SELEX Sistemi Integrati SpA (represented by: F. Sciaudone, R. Sciaudone and A. Neri, avvocati)

*Other party to the proceedings:* Commission of the European Communities (represented by: V. Di Bucci and F. Amato, agents.)

#### Re:

Appeal brought against the order of the Court of First Instance (Second Chamber) of 29 August 2007 in Case T-186/05 *SELEX Sistemi Integrati v Commission* dismissing as in part manifestly inadmissible and in part manifestly without foundation in law the action for compensation for the loss allegedly suffered by the applicant as a result of the Commission decision of 12 February 2004 rejecting the applicant's complaint of an alleged infringement by Eurocontrol of the provisions of the EC Treaty on competition

#### Operative part of the judgment

*The Court:*

1. dismisses the appeal;
2. orders SELEX Sistemi Integrati SpA to pay the costs.

(<sup>1</sup>) OJ C 37, 09.02.2008.