NV, Bayer AG, Crompton Manufacturing Company Inc. (former Uniroyal Chemical Company Inc.), Crompton Europe Ltd, Chemtura Corporation (former Crompton Corporation), General Química SA, Repsol Química SA and Repsol YPF SA (Case No COMP/F/C.38.443 — Rubber chemicals) (OJ 2006 L 353, p. 50) and, in the lesser alternative, seeking a reduction of the fine imposed on the applicants

Operative part of the judgment

The Court:

1. *Sets aside the judgment of the Court of First Instance of the European Communities of 18 December 2008 in Case T-85/06 General Química and Others v Commission, in so far as it dismisses the action brought by General Química SA, Repsol Química SA and Repsol YPF SA seeking annulment of Commission Decision 2006/902/EC of 21 December 2005 relating to a proceeding under Article 81 of the EC Treaty and Article 53 of the EEA Agreement against Flexsys NV, Bayer AG, Crompton Manufacturing Company Inc. (formerly Uniroyal Chemical Company Inc.), Crompton Europe Ltd, Chemtura Corporation (formerly Crompton Corporation), General Química SA, Repsol Química SA and Repsol YPF SA (Case No COMP/F/C.38.443 — Rubber chemicals), in so far as, first, the Court of First Instance did not set out the reasons behind its conclusion that the order given by Repsol Qímica SA to General Química SA to cease any practice which might constitute an infringement of the competition rules was sufficient, in itself, to prove that Repsol Química SA exercised a decisive influence over General Química SA's policy not only on the market but also as regards the unlawful conduct at issue in Decision 2006/902 and, second, the Court of First Instance failed to conduct a concrete examination of the evidence submitted by General Química SA, Repsol Química SA and Repsol YPF SA to demonstrate General Química SA's independence in determining and implementing its commercial policy;*

2. *Dismisses the appeal as to the remainder;*

3. *Dismisses the action brought by General Química SA, Repsol Química SA and Repsol YPF SA before the Court of First Instance of the European Communities;*

4. *Orders each party to bear its own costs relating to the appeal and orders General Química SA, Repsol Química SA and Repsol YPF SA to pay all of the costs at first instance.*

(1) OJ C 90, 18.4.2009.

Judgment of the Court (First Chamber) of 20 January 2011 — European Commission v Hellenic Republic

(Case C-155/09) (1)

(Failure of a Member State to fulfil obligations — Articles 12 EC, 18 EC, 39 EC and 43 EC — Articles 4, 28 and 31 of the Agreement on the European Economic Area — Tax legislation — Conditions for exemption from transfer tax on the first purchase of immoveable property — Exemption granted solely to persons residing in Greece and to persons of Greek origin not residing in Greece at the date of purchase)

(2011/C 80/04)

Language of the case: Greek

Parties

Applicant: European Commission (represented by: R. Lyal and D. Triantafyllou, acting as Agents)

Defendant: Hellenic Republic (represented by: P. Mylonopoulos and V. Karra, acting as Agents)

Re:

Failure of a Member State to fulfil obligations — Infringement of Arts 18, 39 and 43 EC — Exemption from transfer tax on the purchase of a first property — Exemption solely for persons already resident in the country and for Greek citizens who do not reside there when the property is purchased

Operative part of the judgment

The Court:

1. *Declares that,*

   — *by granting exemption from the tax on the transfer of immovable property, under Article 1(1) and (3), first subparagraph, of Law 1078/1980, solely to persons permanently resident in Greece, whilst non-residents who intend to settle in Greece in the future are not granted exemption from the tax, and*

   — *by granting, on certain conditions, exemption from the tax solely to Greek nationals or persons of Greek origin on the purchase of a first residence in Greece,*

   the Hellenic Republic has failed to fulfil its obligations under Articles 12 EC, 18 EC, 39 EC and 43 EC and under Articles 4, 28 and 31 of the Agreement on the European Economic Area of 2 May 1992.

2. *Orders the Hellenic Republic to pay the costs.*

(1) OJ C 167, 18.7.2009.