

By its fourth and final ground of appeal, the appellant complains that the General Court committed errors of law and manifest errors of assessment in that it disregarded the relevant legal criteria for assessing the creation or strengthening of a dominant position and whether the commitments were appropriate in relation to the Commission's findings.

(¹) Council Regulation (EEC) No 4064/89 of 21 December 1989 on the control of concentrations between undertakings (OJ 1989 L 395, p. 1).

Appeal brought on 25 November 2010 by the European Commission against the judgment delivered by the General Court (Sixth Chamber) on 13 September 2010 in Case T-452/04 *Éditions Jacob v European Commission*

(Case C-553/10 P)

(2011/C 46/07)

Language of the case: French

Parties

Appellant: European Commission (represented by: A. Bouquet, O. Beynet and S. Noë, Agents)

Other parties to the proceedings: Éditions Odile Jacob SAS, Wendel Investissement SA, Lagardère SCA

Form of order sought

— set aside the judgment of 13 September 2010 in Case T-452/04 *Éditions Odile Jacob SAS v Commission* in so far as it annulled Commission Decision D(2004) 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 compatible with the common market and the functioning of the EEA Agreement (Case COMP/M.2978 — Lagardère/Natexis/VUP); (¹)

— rule, if appropriate, definitively on the issues which form the subject-matter of this appeal and dismiss the action for annulment, and

— order Éditions Jacob to pay the costs of both instances.

Pleas in law and main arguments

The appellant puts forward three grounds in support of its appeal.

By its first ground of appeal, the Commission submits that the General Court erred in law in that it failed to examine the

consequences of the possible lack of independence of the trustee vis-à-vis Editis in respect of the trustee's duties in relation to Wendel. In the appellant's submission, the lack of independence of a person responsible for assessing a candidate is of no legal significance unless it is established that that person took account in his assessment of an interest other than that of the proper exercise of his duties.

By its second ground of appeal, the appellant alleges that the General Court erred in law and misinterpreted the facts in so far as it found that the trustee's report had a decisive influence on the contested decision, whereas, in actual fact, even if the Commission is required to take it into account, it is not bound by the trustee's opinion and is still required to undertake the necessary investigation in order to ascertain that the purchaser does indeed satisfy the approval criteria.

By its third ground of appeal, which is in two parts, the Commission alleges, first, a misinterpretation of the law as regards the relevance of the plea raised by the applicant at first instance on the validity of the contested decision and, second, an infringement of the obligation to state reasons in that connection.

(¹) OJ 2004 L 125, p. 54.

Appeal brought on 26 November 2010 by Lagardère SCA against the judgment of the General Court (Sixth Chamber) delivered on 13 September 2010 in Case T-452/04 *Éditions Jacob v European Commission*

(Case C-554/10 P)

(2011/C 46/08)

Language of the case: French

Parties

Appellant: Lagardère SCA (represented by: A. Winckler, F. de Bure et J.-B. Pinçon, avocats)

Other parties to the proceedings: Éditions Odile Jacob SAS, European Commission, Wendel Investissement SA

Form of order sought

— set aside the judgment of 13 September 2010 in Case T-452/04 in so far as that judgement annulled the European Commission's Decision of 30 July 2004 approving Wendel Investissement as purchaser of the assets sold in merger control procedure No COMP/M.2978 — Lagardère/Natexis/VUP;

— dismiss Odile Jacob's action brought before the General Court against that decision;

— order Odile Jacob to pay all the costs of these proceedings, both at first instance and in this appeal.

Pleas in law and main arguments

The appellant puts forward two grounds in support of its appeal.

By its first ground of appeal, Lagardère alleges that the General Court erred in law by relying on the unlawfulness of the decision approving the trustee as a basis for annulling the approval decision.

By its second ground of appeal, which contains four parts, the appellant submits that the General Court erred in law in holding that the presence of the trustee's representative on the executive board of Editis as an independent third party could justify the annulment of the approval decision. That flows from the misinterpretation of certain facts, manifest failures to state reasons and several errors of law: the General Court thus erred in law by interpreting incorrectly the concept of independence (first part); the General Court failed to show in its statement of reasons how the links between the trustee's representative and Editis could have vitiated the content of the report submitted by the trustee to the Commission (second part); the General Court misinterpreted the facts and vitiated the judgment under appeal by a manifest failure to state reasons in finding that the trustee's report had exercised a 'decisive influence' on the approval decision (third part) and, lastly, the General Court erred in annulling the approval decision without showing how that decision would have differed in content in the absence of the alleged irregularities (fourth part).

Reference for a preliminary ruling from the Tribunal de Grande Instance de Chartres (France) lodged on 29 November 2010 — Michel Bourges-Maunoury, Marie-Louise Bourges-Maunoury (née Heintz) v Direction des Services Fiscaux d'Eure et Loir

(Case C-558/10)

(2011/C 46/09)

Language of the case: French

Referring court

Tribunal de Grande Instance de Chartres

Parties to the main proceedings

Applicants: Michel Bourges-Maunoury, Marie-Louise Bourges-Maunoury (née Heintz)

Defendant: Direction des Services Fiscaux d'Eure et Loir

Question referred

Is it contrary to the second paragraph of Article 13 of Chapter V of the Protocol on the Privileges and Immunities of the European Communities, ⁽¹⁾ annexed to the Treaty establishing a Single Council and a Single Commission of the European Communities, for the entirety of a taxpayer's income, including Community income, to be taken into account in calculating the cap on wealth tax ('impôt de solidarité sur la fortune')?

⁽¹⁾ OJ 1967 L 152, p. 13, now Article 12 of Chapter V of the Protocol on the Privileges and Immunities of the European Union (OJ 2010 C 83, p. 266).

Action brought on 3 December 2010 — European Commission v Republic of Poland

(Case C-569/10)

(2011/C 46/10)

Language of the case: Polish

Parties

Applicant: European Commission (represented by: K. Herrmann, Agent)

Defendant: Republic of Poland

Form of order sought

— declare that, by not adopting the measures necessary to ensure that access to activities relating to the prospection, exploration and production of hydrocarbons should be free of all discrimination as between interested undertakings and that the authorisations to carry out those activities should be allocated in accordance with a procedure under which all interested undertakings are able to submit applications and in accordance with criteria which are published in the *Official Journal of the European Union* prior to the beginning of the period in which applications must be submitted, the Republic of Poland has failed to comply with its obligations under Articles 2(2), 3(1) and 5(1) and (2) of Directive 94/22/EC of the European Parliament and of the Council of 30 May 1994 on the conditions for granting and using authorisations for the prospection, exploration and production of hydrocarbons; ⁽¹⁾

— order the Republic of Poland to pay the costs of the proceedings.