

Judgment of the Court (First Chamber) of 6 June 2013
 (request for a preliminary ruling from the Oberlandesgericht Wien — Austria) — Bundeswettbewerbsbehörde v Donau Chemie AG, Donauchem GmbH, DC Druck-Chemie Süd GmbH & Co KG, Brenntag Austria Holding GmbH, Brenntag CEE GmbH, ASK Chemicals GmbH, formerly Ashland-Südchemie-Kernfest GmbH, ASK Chemicals Austria GmbH, formerly Ashland Südchemie Hantos GmbH

(Case C-536/11) ⁽¹⁾

(Competition — Access to the file — Judicial proceedings relating to fines for infringement of Article 101 TFEU — Third-party undertakings wishing to bring an action for damages — National rules making access to the file subject to the consent of all parties to the proceedings — Principle of effectiveness)

(2013/C 252/16)

Language of the case: German

Referring court

Oberlandesgericht Wien

Parties to the main proceedings

Applicant: Bundeswettbewerbsbehörde

Defendants: Donau Chemie AG, Donauchem GmbH, DC Druck-Chemie Süd GmbH & Co KG, Brenntag Austria Holding GmbH, Brenntag CEE GmbH, ASK Chemicals GmbH, formerly Ashland-Südchemie-Kernfest GmbH, ASK Chemicals Austria GmbH, formerly Ashland Südchemie Hantos GmbH

In the presence of: Bundeskartellamt, Verband Druck und Medientechnik

Re:

Reference for a preliminary ruling — Oberlandesgericht Wien — Interpretation of provisions of European Union law relating to cartels — Access to the file — National legislation whereby, in administrative proceedings relating to competition, access to the file by third parties is subject to the consent of all parties to the proceedings and there is no weighing of all competing interests, whereas such weighing does take place in respect of access to the file in comparable civil and criminal proceedings

Operative part of the judgment

European Union law, in particular the principle of effectiveness, precludes a provision of national law under which access to documents forming part of the file relating to national proceedings concerning the application of Article 101 TFEU, including access to documents made available under a leniency programme, by third parties who are not party to those proceedings with a view to bringing an action for damages against participants in an agreement or concerted practice is made subject solely to the consent

of all the parties to those proceedings, without leaving any possibility for the national courts of weighing up the interests involved.

⁽¹⁾ OJ C 13, 14.1.2012.

Judgment of the Court (Fourth Chamber) of 11 July 2013
 — French Republic v European Commission, United Kingdom of Great Britain and Northern Ireland

(Case C-601/11 P) ⁽¹⁾

(Appeal — Action for annulment — Protection against transmissible spongiform encephalopathies — Regulation (EC) No 746/2008 — Regulation authorising less restrictive measures of surveillance and eradication than those previously laid down — Precautionary principle — Level of protection of human health — New elements capable of altering the perception of the risk — Failure to state reasons — Distortion of the facts — Error of law)

(2013/C 252/17)

Language of the case: French

Parties

Appellant: French Republic (represented by: E. Belliard, C. Candat, R. Loosli-Surrans, G. de Bergues and S. Menez, acting as Agents)

Other parties to the proceedings: European Commission (represented by: F. Jimeno Fernández and D. Bianchi, acting as Agents), United Kingdom of Great Britain and Northern Ireland

Re:

Appeal brought against the judgment of the General Court (Third Chamber, Extended Composition) of 9 September 2011 in Case T-257/07 *France v Commission* by which the General Court dismissed the application for annulment of Commission Regulation (EC) No 746/2008 of 17 June 2008 amending Annex VII to Regulation (EC) No 999/2001 of the European Parliament and of the Council laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies (OJ 2008 L 202, p. 11) in so far as it authorises monitoring and eradication measures less restrictive than those previously prescribed for ovine and caprine flocks — Failure to state the reasons for the decision — Distortion of the facts — Incorrect legal classification of the facts — Breach of the precautionary principle

Operative part of the judgment

The Court:

1. Dismisses the appeal;
2. Orders the French Republic to pay the costs.

⁽¹⁾ OJ C 80, 17.3.2012.