

Appeal brought on 11 January 2011 by European Commission against the judgment of the General Court (Fourth Chamber) delivered on 27 October 2010 in Case T-24/05: Alliance One International, Inc. (formerly Standard Commercial Corp.), Standard Commercial Tobacco Company, Inc., Trans-Continental Leaf Tobacco Corp. Ltd v European Commission

(Case C-14/11 P)

(2011/C 80/28)

Language of the case: English

Parties

Appellant: European Commission (represented by: F. Castillo de la Torre, E. Gippini Fournier, R. Sauer, Agents)

Other parties to the proceedings: Alliance One International, Inc. (formerly Standard Commercial Corp.), Standard Commercial Tobacco Company, Inc., Trans-Continental Leaf Tobacco Corp. Ltd

Form of order sought

The appellant claim that the Court should:

- set aside point 1 of the operative part of the contested judgment;
- dismiss the action before the General Court in its entirety;
- require TCLT to bear the costs of these proceedings and to require the three Applicants to bear the entirety of the costs of the proceedings in first instance.

Pleas in law and main arguments

The Appellant submits that the contested judgment should be set aside on the following grounds:

1. The General Court misapplied the principle of equal treatment and disregarded a well established line of case law according to which the liability of each company must be assessed on its own merits.
2. The General Court erred in law in considering that the Commission's treatment of certain parent companies determined the legal standard for holding other parent companies liable, even if such standard went beyond what the case law requires.
3. By preventing the Commission from raising arguments in response to claims of discrimination, the General Court breached the Commission's rights to an adversarial procedure and misinterpreted the duty to state reasons.
4. The General Court misapplied the principle of equal treatment since Trans-Continental Leaf Tobacco Corp. Ltd. was in an objectively different situation from Intabex and Universal.

Action brought on 13 January 2011 — European Commission v Republic of Poland

(Case C-20/11)

(2011/C 80/29)

Language of the case: Polish

Parties

Applicant: European Commission (represented by: I. Hadjiyiannis and Ł. Habiak, acting as Agents)

Defendant: Republic of Poland

Form of order sought

— declare that, by not adopting all the laws, regulations and administrative provisions necessary to comply with Directive 2007/60/EC of the European Parliament and of the Council of 23 October 2007 on the assessment and management of flood risks,⁽¹⁾ and in any event by not informing the Commission of such provisions, the Republic of Poland has failed to fulfil its obligations under Article 17(1) of that directive;

— order the Republic of Poland to pay the costs.

Pleas in law and main arguments

The time-limit for transposition of Directive 2007/60 expired on 26 November 2009.

⁽¹⁾ OJ 2007 L 288, p. 27.

Reference for a preliminary ruling from the Korkein oikeus (Finland) lodged on 17 January 2011 — Finnair Oyj v Timy Lassooy

(Case C-22/11)

(2011/C 80/30)

Language of the case: Finnish

Referring court

Korkein oikeus

Parties to the main proceedings

Applicant: Finnair Oyj

Defendant: Timy Lassooy

Questions referred

1. Is Regulation No 261/2004⁽¹⁾ and in particular Article 4 thereof to be interpreted as meaning that its application is limited only to cases of denied boarding which are caused by overbooking by the air carrier for economic reasons, or is the regulation applicable also to situations in which boarding is denied for other reasons, such as operational reasons?

2. Is Article 2(j) of the regulation to be interpreted as meaning that the reasonable grounds laid down therein are limited only to factors relating to passengers, or may denied boarding be reasonable on other grounds? If the regulation is to be interpreted as meaning that denied boarding may be reasonable on grounds other than those relating to passengers, is it to be interpreted as meaning that denied boarding may also be reasonable on the grounds of the rescheduling of flights as a result of the extraordinary circumstances mentioned in recitals 14 and 15?
3. Is the regulation to be interpreted as meaning that an air carrier may be exempted from liability under Article 5(3) in extraordinary circumstances not only with respect to a flight which it cancelled, but also with respect to passengers on later flights, on the ground that by its actions it attempted to spread the negative effects of the extraordinary circumstances it encountered in its operations, such as a strike, among a wider class of passengers than the cancelled flight's passengers by rescheduling its later flights so that no passenger's journey was unreasonably delayed? In other words, may an air carrier rely on extraordinary circumstances also with respect to a passenger on a later flight whose journey was not directly affected by that factor? Does it make a significant difference whether the passenger's situation and right to compensation are assessed in accordance with Article 4 on denied boarding or with Article 5 on flight cancellation?

⁽¹⁾ Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 (Text with EEA relevance) — Commission Statement (OJ 2004 L 46, p. 1).

Action brought on 25 January 2011 — European Commission v Czech Republic

(Case C-37/11)

(2011/C 80/31)

Language of the case: Czech

Parties

Applicant: European Commission (represented by: Z. Malůšková and H. Tserepa-Lacombe, acting as Agents,)

Defendant: Czech Republic

Form of order sought

— declare that, by providing in Paragraph 1(2)(q) of Decree No 77/2003 Coll. that 'spreadable butter' (pomazánkové máslo)

shall mean a milk product from soured cream, enriched by powdered milk or buttermilk, containing, by weight, not less than 31 % milk fat and 42 % dry material, and by allowing such a product to be marketed under the commercial designation 'spreadable butter', the Czech Republic has failed to fulfil its obligations under Article 115 of Regulation (EC) No 1234/2007 ⁽¹⁾ in conjunction with point I, clause 2, first and second subclauses of Annex XV to Regulation (EC) No 1234/2007 and Part A, points 1 and 4 of the Appendix to Annex XV to Regulation (EC) No 1234/2007;

— order Czech Republic to pay the costs.

Pleas in law and main arguments

Article 115 of Regulation (EC) No 1234/2007, in conjunction with point I, clause 2, first and second subclauses of Annex XV and Part A, point 1 of the Appendix to Annex XV to Regulation (EC) No 1234/2007, provides that the commercial designation 'butter' is reserved for products with a milk fat content of at least 80 % and a water content not exceeding 16 %. In the Czech Republic, by Paragraph 1(2)(q) of Ministry of Agriculture Decree No 77/2003 Coll. of 6 March 2003, a product is introduced to the market under the commercial designation 'spreadable butter'. That product is a solid, tractable emulsion of the water in oil type, obtained primarily from soured cream and containing, by weight, not less than 31 % milk fat and 42 % dry material. On account of its lower than prescribed content in milk fat, the product 'spreadable butter' does not fulfil the conditions for use of the commercial designation 'butter', and the above-mentioned EU legal provisions are thereby infringed.

Point I, second subclause of Annex XV, in conjunction with Part A, point 4 of the Appendix to Annex XV to Regulation (EC) No 1234/2007 requires that, for milk products with a milk fat content of less than 39 %, the commercial designation 'Dairy spread X %' be used. 'Spreadable butter' is not marketed under that designation, and accordingly the above-mentioned EU legal provisions are infringed.

By way of exception, products may be marketed under the commercial designation 'butter' even if they do not fulfil the above parameters, if the requirements laid down by point I, clause 2, third subclause (a) of Annex XV to Regulation (EC) No 1234/2007 are fulfilled. Such products are exhaustively listed in the list of products in Annex I to Commission Regulation (EC) No 445/2007. ⁽²⁾ 'Spreadable butter' has not been entered on that list, as it does not fulfil the conditions laid down by point I, clause 2, third subclause (a) of Annex XV to Regulation (EC) No 1234/2007. 'Spreadable butter' cannot therefore use those exceptions.

⁽¹⁾ OJ 2007 L 299, 16.11.2007, p. 1

⁽²⁾ OJ 2007 L 106, 24.4.2007, p. 24