

By its second ground, the appellant submits that the General Court failed to provide sufficient grounds for its decision with regard to the application of Article 23(2) of Regulation No 1/2003 ⁽¹⁾ or of Article 15 of Regulation No 17. ⁽²⁾

By its third ground, the appellant submits that the General Court has failed to exercise its powers of review and has failed properly to review the grounds and the reasoning of the Commission concerning the impact of the practice on the market.

By its fourth ground, the appellant submits, in the alternative, that the General Court has failed to comply with the procedure, by breaching the principle of the right to fair legal process within a reasonable period enshrined in Article 6 ECHR and the principle of effective judicial protection. That ground leads the appellant to seek to have the judgment under appeal set aside and, in the alternative, to reduce the amount of the fine to take account of the financial consequences for the appellant of the time in excess of a reasonable period which has elapsed.

⁽¹⁾ Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 [EC] and 82 [EC] (OJ 2003 L 1, p. 1).

⁽²⁾ Council Regulation No 17 of 6 February 1962, First Regulation implementing Articles [81 EC] and [82 EC] (OJ, English Special Edition, 1959-1962, p. 87).

Action brought on 2 February 2012 — European Commission v Ireland

(Case C-55/12)

(2012/C 89/28)

Language of the case: English

Parties

Applicant: European Commission (represented by: R. Lyal, W. Mölls, Agents)

Defendant: Ireland

The applicant claims that the Court should:

— declare that by granting excise duty relief for the fuel used by disabled people for motor vehicles without respecting the minimum levels of taxation prescribed by Council Directive 2003/96/EC ⁽¹⁾ Ireland has failed to fulfil its obligations under that Directive;

— order Ireland to pay the costs.

Pleas in law and main arguments

The Commission submits that, by maintaining the exemption from excise duty of motor fuels used by disabled people, Ireland is in breach of its obligations under the directive.

⁽¹⁾ Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity
OJ L 283, p. 51

Appeal brought on 6 February 2012 by Groupe Gascogne SA against the judgment of the General Court (Fourth Chamber) delivered on 16 November 2011 in Case T-72/06 Groupe Gascogne v Commission

(Case C-58/12 P)

(2012/C 89/29)

Language of the case: French

Parties

Appellant: Groupe Gascogne SA (represented by: P. Hubert and E. Durand, avocats)

Other party to the proceedings: European Commission

Form of order sought

— Set aside the judgment under appeal inasmuch as it dismissed the action brought by Groupe Gascogne SA for the annulment of Commission Decision C(2005) 4634 final of 30 November 2005 relating to a proceeding under Article 81 [EC] (Case COMP/F/38.354 – Industrial bags) and ordered Groupe Gascogne SA to pay the costs;

— Set aside the judgment under appeal inasmuch as it upheld the penalty imposed on Groupe Gascogne SA by the contested decision;

— refer the case back to the General Court for judgment as may be required by the Court or directly set the penalty at an amount:

— not exceeding 10 % of the combined turnover of the companies Sachsa and Groupe Gascogne S.A., the only undertakings implicated in the present proceedings;

— and/or taking into account the fact that the duration of the proceedings before the General Court was manifestly excessive;

— order the defendant, the European Commission, to pay the costs of both sets of proceedings in their entirety.