

V

(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Appeal brought on 16 May 2012 by FLS Plast A/S against the judgment of the General Court (Fourth Chamber) delivered on 6 March 2012 in Case T-64/06: FLS Plast A/S v European Commission

(Case C-243/12 P)

(2012/C 319/02)

Language of the case: English

Parties

Appellant: FLS Plast A/S (represented by: M. Thill-Tayara, avocate)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

- (a) Primarily, set aside the judgment of the General Court of the European Union of 6 March 2012 in Cases T-64/06 and, adjudicating the case, to annul Articles 1(h) and 2(f) of the decision of the Commission of the European Communities dated 30 November 2005 in Case COMP/F/38.354 — Industrial Bags ('the Contested Decision'), insofar as they apply to the Appellant.
- (b) Alternatively, set aside the judgment of the General Court of the European Union of 6 March 2012 in Case T-64/06 in so far as it rejected the Appellant's grounds seeking a reduction of the amount for which the Appellant was held jointly and severally liable in the Contested Decision and, adjudicating the case, to amend Article 2(f) of the Contested Decision and substantially reduce this amount in exercise of its unlimited jurisdiction.
- (c) In any event, grant the Appellant a 50 % reduction of the amount for which the Appellant was held jointly and severally liable in reparation of the excessive duration of the procedure.

- (d) Order the European Commission to pay the Appellant's legal and other costs and expenses in relation to this matter.

Pleas in law and main arguments

- (a) ***In support of the primary form of order sought, the Appellant raises two pleas in law***
 - (i) The General Court applied the wrong legal test to the Appellant's liability.
 - (ii) The General Court failed to verify whether the Commission complied with its duty to state reasons when rejecting the arguments and evidence submitted by the Appellant in order to rebut the presumption of parent liability.
- (b) ***In support of the alternative form of order sought, the Appellant raises three pleas in law***
 - (i) When reviewing the Appellant's non-contestation of the facts submitted in accordance with the Commission *Notice on the non-imposition or reduction of fines in cartel cases of 1996*, the General Court erred by failing to put an end to the breaches by the European Commission of the principles of legitimate expectations and equal treatment, as well as by not complying with its own obligation to state reasons.
 - (ii) The General Court erred in law by failing to apply the principle of proportionality and legality when reviewing the amount for which the Appellant was held jointly and severally liable in the Contested Decision, thus failing to reduce this amount accordingly.
 - (iii) The General Court infringed Article 6(1) of the European Convention on Human Rights and Articles 41 and 47 of the European Charter of Fundamental Rights in not handing down a judgment within a reasonable time.