



## Reports of Cases

**Case T-725/14**

**Aalberts Industries NV**

**v**

**European Union, represented by the Court of Justice of the European Union**

(Non-contractual liability-Article 47 of the Charter of Fundamental Rights-Obligation to adjudicate within a reasonable time-Circumstances of the case-Importance of the case-Complexity of the dispute-Conduct of the parties and supervening procedural matters-No period of unjustified inactivity)

Summary — Judgment of the General Court (Third Chamber, Extended Composition), 1 February 2017

1. *Non-contractual liability — Conditions — Unlawfulness — Damage — Causal link — Cumulative conditions — One of the conditions not satisfied — Claim for compensation dismissed in its entirety*

*(Art. 340, second para., TFEU)*

2. *Judicial proceedings — Duration of the proceedings before the General Court — Reasonable time — Criteria for assessment*

*(Charter of Fundamental Rights of the European Union, Art. 47, second para.)*

3. *Judicial proceedings — Duration of the proceedings before the General Court — Reasonable time — Dispute concerning whether there has been an infringement of the competition rules — Long duration of the procedure justified by the complexity of the case, the conduct of the parties and the absence of any unexplained period of inactivity — No infringement of the obligation to adjudicate within a reasonable time*

*(Arts 107 TFEU and 108 TFEU; Charter of Fundamental Rights of the European Union, Art. 47, second para.)*

1. See the text of the decision.

(see paras 26, 81)

2. It is true that the duration of the procedure in a case lasting more than four years and three months is, at first sight, very long. However, the reasonableness of the period for delivering judgment is to be appraised in the light of the circumstances specific to each case and, in particular, the importance of the case for the person concerned, its complexity, the conduct of the parties and whether procedural incidents arise.

The list of relevant criteria is not exhaustive and the assessment of the reasonableness of a period does not require a systematic examination of the circumstances of the case in the light of each of them, where the duration of the proceedings appears justified in the light of one of them. Thus, the

complexity of the case or the dilatory conduct of the applicant may be deemed to justify a duration which is *prima facie* too long. It follows that the reasonableness of a period cannot be assessed by reference to a precise maximum limit determined in an abstract manner but, rather, must be appraised in the light of the specific circumstances of each case.

(see paras 34-38)

3. The second paragraph of Article 47 of the Charter of Fundamental Rights of the European Union is not infringed by a competition proceeding before the General Court which has lasted more than 4 years and 3 months, but which is justified in consideration of the specific circumstances of the case, and, in particular, its legal and factual complexity, the conduct of the parties, and the absence of any unexplained period of inactivity during each of the stages of the procedure in the case.

First, during the period between the end of the written part of the procedure marked by the lodging of the rejoinder and the opening of the oral part of the procedure, the steps taken included summarising the arguments of the parties, preparing the cases, analysing the facts and law of the disputes and preparing the oral part of the procedure. In that regard, actions concerning the application of competition law by the Commission exhibit a greater degree of complexity than other types of cases, given, in particular, the length of the contested decision, the size of the case file and the need to carry out a detailed assessment of many complex facts, which often arise over extended periods and in various places. Thus, a period of 15 months between the end of the written part of the procedure and the opening of the oral part of the procedure is, in principle, an appropriate length of time for dealing with cases concerning the application of competition law. Moreover, actions brought against a single decision adopted by the Commission pursuant to EU competition law need, in principle, to be dealt with in parallel, including where those actions are not joined. The parallel processing of such actions is justified in particular by the connection between them and the need to ensure consistency in their analysis and in the response to be given to them. Therefore, the parallel processing of connected cases may be a justification for extending by a period of one month for each additional connected case the interval between the end of the written part of the procedure and the opening of the oral part of that procedure.

Next, the action brought in the case in question challenged all aspects of the contested decision concerning the applicant and raised complex issues of fact and law which had to be analysed as a whole prior to the opening of the oral part of the procedure. In that regard, the pleadings lodged by the parties were particularly long and accompanied by voluminous annexes, which had to be examined in detail and verified before the opening of the oral part of the procedure in order, in particular, to assess their probative value and to establish fully the facts at issue. Furthermore, there was a close connection between the case in question and nine other actions brought against that decision in several different languages. In addition, a relatively long period was necessary for the Commission to lodge a version of the rejoinder in the working language of the Court of Justice of the European Union. Consequently, it must be held that the period of 25 months which elapsed between the end of the written part of the procedure and the opening of the oral part of the procedure fails to show that there was any period of unjustified inactivity in the handling of that case.

(see paras 34, 63, 64, 66, 67, 69, 70, 74, 76, 79, 80)