

By the **seventh ground of appeal**, the appellant complains that there has been an infringement of Article 23 of Regulation No 1/2003 and the principle of equal treatment. In particular, the Commission had subdivided the undertakings into groups in order to determine the basic fine to be applied to each undertaking, attempting — according to the contested decision — to maintain a proportionate relationship between the average market share of each group and the basic fine imposed on the individual undertakings belonging to that group. Although it subsequently acknowledged that the Commission had underestimated the average market share of one of those groups, with the result that the relationship of proportionality which the Commission had meant to maintain had not been maintained, the General Court did not find it necessary to re-establish that relationship.

⁽¹⁾ Commission Regulation (EC) No 773/2004 of 7 April 2004 relating to the conduct of proceedings by the Commission pursuant to Articles 81 and 82 of the EC Treaty (OJ 2004 L 123, p. 18).

⁽²⁾ Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (OJ 2003 L 1, p. 1).

Appeal brought on 20 February 2015 by Ferriere Nord SpA against the judgment of the General Court (Eighth Chamber) delivered on 9 December 2014 in Case T-90/10 Ferriere Nord v Commission

(Case C-88/15 P)

(2015/C 146/30)

Language of the case: Italian

Parties

Appellant: Ferriere Nord SpA (represented by: W. Viscardini and G. Donà, avvocati)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

- primarily, set aside the judgment of the General Court (Eighth Chamber) delivered on 9 December 2014 in Case T-90/10 to the extent that it dismissed Ferriere Nord's main head of claim seeking the annulment in its entirety of Commission Decision C(2009) 7492 final of 30 September 2009, as amended and supplemented by Commission Decision C(2009) 9912 final of 8 December 2009;
- consequently, annul the Commission Decisions mentioned above;
- in the alternative, set aside the judgment under appeal to the extent that it dismissed Ferriere Nord's alternative head of claim seeking the annulment in part of Commission Decision C(2009) 7492 final of 30 September 2009, as amended and supplemented by Commission Decision C(2009) 9912 final of 8 December 2009 and, as a result, reduce the fine imposed;
- consequently, annul in part the Commission Decisions mentioned above and, as a result, order a further reduction (in addition to the reduction already granted by the General Court) of the fine imposed;
- in any event, order the European Commission to pay the costs at first instance and on appeal.

Grounds of appeal and main arguments

- I — Manifest distortion, as can be seen from the acts in question, of the facts and the evidence as regards the Commission's lack of competence to impose penalties on Ferriere Nord — Unlawful failure to establish the clear contradictions in the statement of reasons for the Commission's decision and failure to state reasons — Infringement of the rules governing the burden of proof.

- II — Infringement of Article 27 of Regulation No 1/2003 ⁽¹⁾ owing to a failure to communicate a new ‘Statement of Objections’ beforehand — Infringement of the principle of legitimate expectations — Manifest distortion, as can be seen from the acts in question, of the facts and the evidence — Infringement of the rights of the defence — Failure to state reasons — Infringement of the right to a hearing before the Hearing Officer.
- III — Infringement of the Commission’s internal rules of procedure (and, in turn, of primary and secondary EU law on multilingualism) owing to the authentic language version of the Hearing Officer’s Final Report postdating the decision adopted by the College of Commissioners on 30 September 2009.
- IV — Duration of Ferriere Nord’s participation in the cartel — Errors of law in the assessment of the facts: distortion of the evidence — Infringement of the general principles concerning the burden of proof and *in dubio pro reo* — Contradictory statement of reasons.
- V — Infringement of the principle of proportionality in determining the basic amount of the fine applied to Ferriere Nord in view of the seriousness and duration of the cartel — Infringement of the principle of equal treatment — Failure to state reasons.
- VI — Manifest error (or clear inaccuracy) in calculating the reduction of the fine imposed on Ferriere Nord — Misuse of powers of unlimited jurisdiction — Failures to state reasons.
- VII — Increase in the basic amount of the fine for repeated infringement unlawful due to infringement of the rights of the defence.
- VIII — Increase in the basic amount of the fine for repeated infringement unlawful by reason of the time spent.
- IX — Increase in the basic amount of the fine for repeated infringement unlawful due to infringement of the principle of proportionality.

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

Appeal brought on 24 February 2015 by Riva Fire SpA, in liquidation, against the judgment of the General Court (Second Chamber) delivered on 9 December 2014 in Case T-83/10 Riva Fire v Commission

(Case C-89/15 P)

(2015/C 146/31)

Language of the case: Italian

Parties

Appellant: Riva Fire SpA, in liquidation (represented by: M. Merola, M. Pappalardo, T. Ubaldi and M. Toniolo, avvocati)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

- primarily, set aside the judgment under appeal in so far as the General Court holds that the appellant’s rights of the defence have not been infringed and, consequently, annul the contested decision in its entirety;