

*Other party to the proceedings:* European Commission

### **Form of order sought**

The appellant claims that the Court should:

- Set aside the Judgment of the General Court in Case T-104/13 insofar as it upheld the finding of the European Commission that Toshiba is jointly and severally liable for the conduct of MTPD;
- Annul the Decision of the European Commission in Case COMP/39.437 TV and Computer Monitor Tubes insofar as it found that Toshiba infringed Article 101 TFEU and held Toshiba jointly and severally liable for the conduct of MTPD;
- Order the European Commission to pay the costs.

### **Pleas in law and main arguments**

In support of the action, the applicants rely on a single plea in law:

The General Court misapplied the concept of undertaking by incorrectly classifying certain elements as indicating that Toshiba was in a position to, or did actually, exercise decisive influence over MTPD and by concluding that the sum of those elements was sufficient to support the conclusion that Toshiba did exercise such influence over MTPD.

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**Appeal brought on 23 November 2015 by Schniga GmbH against the judgment of the General Court  
(Third Chamber) delivered on 10 September 2015 in joined Cases T-91/14 and T-92/14: Schniga  
GmbH v Community Plant Variety Office**

**(Case C-625/15 P)**

(2016/C 027/31)

*Language of the case: English*

### **Parties**

*Appellant:* Schniga GmbH (represented by: G. Würtenberger, R. Kunze, Rechtsanwälte)

*Other parties to the proceedings:* Community Plant Variety Office, Brookfield New Zealand Ltd, Elaris SNC

### **Form of order sought**

The appellant claims that the Court should:

- annul the judgement of the General Court of 10 September 2015 in joined cases T-91/14 and T-92/14;
- order the CPVO and the Interveners to bear the costs of the proceedings.

### **Pleas in law and main arguments**

The General Court committed a legal error in the application of Article 7 of Regulation No. 2100/94 <sup>(1)</sup> on Community Plant Variety Rights (hereinafter: CPVR) as well as of Articles 22 and 23 of Commission Regulation (EC) No. 1239/95 <sup>(2)</sup> of 31 May 1995.

The General Court wrongly assessed the competence of the President of the Community Plant Variety Office in the inclusion of additional characteristics in the examination process of a variety to be granted Community plant variety protection.

The General Court wrongly assessed the legal nature of technical protocols and guidelines to be applied in the technical examination of an applied for Community plant variety right, resulting in a wrong assessment of the time frame in which the President of the Community Plant Variety Office may decide that a new characteristic for determination of distinctness of the new variety may be taken into account.

The General Court erred in assessing the consequence of the application of the principles of legal certainty, the objectivity of the Community Plant Variety Office and equal treatment in relation to the decisions of the President of the Community Plant Variety Office in the examination of a new variety.

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<sup>(1)</sup> Council Regulation (EC) No 2100/94 of 27 July 1994 on Community plant variety rights  
OJ L 227, p. 1.

<sup>(2)</sup> Commission Regulation (EC) No 1239/95 of 31 May 1995 establishing implementing rules for the application of Council Regulation (EC) No 2100/94 as regards proceedings before the Community Plant Variety Office  
OJ L 121, p. 37.

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**Appeal brought on 2 December 2015 by Hungary. against the judgment delivered on 15 September 2015 in Case T-346/12 Hungary v European Commission**

**(Case C-644/15 P)**

(2016/C 027/32)

*Language of the case: Hungarian*

**Parties**

*Appellant:* Hungary (represented by: M.Z. Fehér)

*Other party to the proceedings:* European Commission

**Form of order sought**

- Annul the judgment of the General Court in Case T-346/12;
- Decide the case on the basis of the possibility provided by Article 61 of the Statute;
- Order the Commission to bear the costs.

**Pleas in law and main arguments**

The Hungarian Government submits that the General Court misapplied the law in holding that, in its decision on the partial reimbursement of national financial assistance granted — on the basis of Article 103e of Council Regulation (EC) No 1234/2007 <sup>(1)</sup> — to producers' organisations operating in the fruit and vegetable sector, the Commission had a legal basis for making the amount repaid by the European Union subject to the amount of assistance notified.

The Hungarian Government submits that, on the basis of the interpretation of the relevant provisions of Regulation No 1234/2007/EC in conjunction with Regulation No 1580/2007/EC, <sup>(2)</sup> the Commission was not entitled to agree to reimburse only those amounts which were indicated by the Hungarian Government in its application for the grant of national assistance, where they are given as estimated, expected or provisional amounts, in its decision on the partial reimbursement of national financial assistance granted to producers' organisations operating in the fruit and vegetable sector.