



Reports of Cases

Judgment of the General Court (Eighth Chamber) of 10 April 2018 – Alcogroup and Alcodis v Commission

(Case T-274/15)

(Action for annulment — Competition — Agreements, decisions and concerted practices — Markets in bioethanol and ethanol — Administrative procedure — Decision ordering an inspection — Commission's powers of investigation — Professional privilege protecting communications between lawyers and their clients — Documents exchanged following a previous inspection — Commission's refusal to suspend the infringement proceedings at issue — Measure not open to challenge — Inadmissibility)

1. *Actions for annulment — Review of legality — Criteria — Account taken only of elements of fact and law existing at the date on which the contested measure was adopted*

(Art. 263 TFEU)

(see para. 61)

2. *Acts of the institutions — Decision — Validity — Assessment to take no account of any irregularities in its implementation*

(see para. 63)

3. *Actions for annulment — Actionable measures — Meaning — Measures producing binding legal effects — Preparatory measures — Not included*

(Art. 263 TFEU)

(see paras 71-75, 80)

4. *Actions for annulment — Action against a decision refusing to withdraw or amend an earlier act — Admissibility to be assessed in relation to the possibility of challenging the act at issue*

(Art. 263 TFEU)

(see para. 76)

5. *Actions for annulment — Actionable measures — Measures producing binding legal effects — Administrative procedure for applying the competition rules — Measures taken during the inspection procedure — Possibility to contest the final decision adopted by the Commission under the competition rules*

(Art. 263 TFEU)

(see para. 91)

6. *EU law — Principles — Right to effective judicial protection — Action for annulment against measures not producing binding legal effects inadmissible — Possibility of parties challenging such measures by an action in non-contractual liability of the Union*

(Arts 263 TFEU and 340, second para., TFEU)

(see para. 92)

Re:

Action pursuant to Article 263 TFEU seeking the annulment of Commission Decision C(2015) 1769 final of 12 March 2015, addressed to Alcogroup and to all companies directly or indirectly controlled by it, including Alcodis, and relating to a procedure pursuant to Article 20(4) of Council Regulation (EC) No 1/2003 (AT.40244 — Bioethanol) and the annulment of the Commission's letter of 8 May 2015 addressed to Alcogroup in the context of the investigations AT.40244 — Bioethanol and AT.40054 — Oil and Biofuel Markets.

Operative part

The Court:

1. Dismisses the action as inadmissible;
2. Orders Alcogroup and Alcodis to bear their own costs and to pay those incurred by the European Commission, including those relating to the proceedings for interim measures;
3. Orders the Orde van Vlaamse Balies, the Ordre des barreaux francophones et germanophone and the Ordre français des avocats du barreau de Bruxelles to bear their own respective costs incurred in the present proceedings.