

7. The General Court committed an error of law consisting in infringing the appellant's rights of defence by finding that, inasmuch as the Commission based its assessment of the appellant's ability to pay on facts adduced and known by the latter, the Commission had respected the appellant's right to be heard.
8. The General Court erred in law in the assessment of the evidence and, in any event, did not exercise its powers of judicial review in accordance with law, erred in law by failing to fulfil its duty to state reasons and, lastly, the General Court erred in law by distorting the facts and the evidence relating to the possibility of the appellant obtaining external financing.
9. The General Court erred in law in assessing the evidence, and in any event, failed to fulfil its duty to exercise its powers of unlimited jurisdiction, by considering that the appellant had not provided the Commission with the information necessary to evaluate the assets of its shareholders. In addition, the General Court failed to state reasons since it did not explain why the Deloitte reports relied on by Tyrsa PSC lacked evidential value.

Appeal brought on 12 August 2016 by Trefilerías Quijano, SA against the judgment of the General Court (Sixth Chamber) delivered on 2 June 2016 in Joined Cases T-426/10 to T-429/16 and T-438/12 to T-441/12, Moreda-Rivière Trefilerías and Others v Commission

(Case C-460/16 P)

(2016/C 392/22)

Language of the case: Spanish

Parties

Appellant: Trefilerías Quijano, S.A. (represented by: F. González Díaz, A. Tresandi Blanco and V. Romero Algarra, lawyers)

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 of 2 June 2016 in Cases T-426/10 to T-429/10 and, in particular, in Case T-427/10, *Trefilerías Quijano v Commission*;
- order the Commission to pay the costs incurred in both the present proceedings and the proceedings before the General Court.

Grounds of appeal and main arguments

1. The General Court erred in law by distorting the facts and the evidence and by failing to state reasons in relation to the alleged existence of structural links between TQ and GSW prior to 1996, applied its powers of judicial review in an incorrect and/or *ultra vires* manner and, in any event, relied on manifestly irrelevant facts and/or incorrectly characterised those facts as indications of structural links and, in any event, used the concept of the person liable for the infringement incorrectly by referring to TQ's forming part of Group Celsa.
2. The General Court erred in law by applying an incorrect legal standard and erred in law in the assessment of the evidence, and in any event, breached its duties as regards judicial review by considering that the appellant had merely adduced 'statements of its managing directors' (actually sworn statements of TQ's managing directors) with a view to demonstrating that the executive and control powers of GSW, as sole administrator, were delegated to the respective managing directors of TQ, and that TQ operated independently in the market. Moreover, the General Court failed to state reasons since it did not explain why the sworn statements of TQ's managing directors relied on by that party were insufficient evidence.

3. The General Court mischaracterised the facts, namely the impressions of competitors, in finding that those impressions constituted an additional indication, and were therefore legally relevant, in demonstrating the existence of an economic unit comprised of TQ, GSW and the other companies owned by the latter. In addition, the General Court erred in law by distorting the facts and the evidence in relation to the perception of competitors.
4. The General Court mischaracterised the facts, namely the overlaps of staff between TQ, GSW and the companies owned by the latter, by considering that those overlaps constituted an additional indication, and were therefore legally relevant, in demonstrating that those companies formed an economic unit, of which GSW was the parent company.
5. The General Court erred in law in the characterisation of certain facts, namely the division of production and sales activities between the four companies, by regarding that division as an additional legally relevant indication in order to demonstrate that TQ formed part of an economic unit comprised of GSW and the other companies owned by the latter.
6. The General Court erred in law by applying an incorrect legal standard when examining the alleged exercise of decisive influence, and in any event, failed to state reasons in relation to the alleged exercise of decisive influence by GSW over TQ.
7. The General Court erred in law in the assessment of the evidence, and in any event, breached its duties as regards judicial review, by rejecting the appellant's argument that GSW did not exercise decisive influence over TQ.
8. The General Court committed an error of law consisting in the infringement of the rights of the defence by finding that, inasmuch as the Commission based its assessment of the appellant's ability to pay on facts adduced and known by the latter, the Commission had respected the appellant's right to be heard.
9. The General Court erred in law in the assessment of the evidence and, in any event, failed to exercise its powers of judicial review in accordance with law. Moreover, the General Court erred in law by failing to fulfil its duty to state reasons. Lastly, and in any event, the General Court erred in law by distorting the facts and the evidence relating to the possibility of the appellant obtaining external financing.
10. The General Court erred in law in assessing the evidence, and in any event, failed to fulfil its duty to exercise its powers of unlimited jurisdiction, by considering that the appellant had not provided the Commission with the information necessary to evaluate the assets of its shareholders. In addition, the General Court failed to state reasons since it did not explain why the Deloitte reports relied on by the appellant lacked evidential value.

Appeal brought on 12 August 2016 by Moreda-Riviere Trefilerías, S.A. against the judgment of the General Court (Sixth Chamber) delivered on 2 June 2016 in Joined Cases T-426/10 to T-429/16 and T-438/12 to T-441/12, Moreda-Riviere Trefilerías and Others v Commission

(Case C-461/16 P)

(2016/C 392/23)

Language of the case: Spanish

Parties

Appellant: Moreda-Riviere Trefilerías, S.A. (represented by: F. González Díaz, A. Tresandi Blanco and V. Romero Algarra, lawyers)

Other party to the proceedings: European Commission