

**Action brought on 24 June 2016 — České dráhy v Commission**

(Case T-325/16)

(2016/C 314/36)

*Language of the case: Czech***Parties**

*Applicant:* České dráhy, a.s. (Prague, Czech Republic) (represented by: K. Muzikář and J. Kindl, lawyers)

*Defendant:* European Commission

**Form of order sought**

- annul decision C(2016) 2417 final of the European Commission of 18 April 2016 (Case AT.40156 — Falcon);
- order the Commission to pay České dráhy the costs of these proceedings in full.

**Pleas in law and main arguments**

In support of the action, the applicant relies on six pleas in law.

1. First plea in law, alleging that the contested decision on an inspection concerning participation in anti-competitive conduct, or the inspection itself, constitutes an arbitrary and disproportionate interference in the private sphere of the applicant
  - The contested decision was adopted contrary to the principle of proportionality, since the crucial information may already be found in the file of the procedure before the national body for the protection of economic competition, and two private-law procedures are also being carried on in the same case. The aim pursued by the contested decision could moreover be achieved in a less intrusive manner which would limit the extent of the infringement of the applicant's fundamental rights.
2. Second plea in law, alleging that the contested decision does not satisfy the requirements laid down for the standard of the statement of reasons and the definition of the subject-matter and purpose of the inspection
  - In the contested decision the Commission defined the subject-matter and purpose of the inspection inadmissibly broadly. It also gave insufficient reasons for the contested decision. In the statement of reasons for the contested decision the Commission did not describe specifically the facts and hypotheses it intended to ascertain by means of the inspection. Nor did it specify any circumstantial evidence to support its suspicions. The definition of the subject-matter and purpose of the inspection in the contested decision and its statement of reasons did not enable the applicant to determine its corresponding obligations sufficiently precisely. The contested decision thus also interferes with the applicant's rights of defence.
3. Third plea in law, alleging that no evidence, even circumstantial, exists to give grounds for suspicion of anticompetitive conduct by the applicant which would support the adoption of the contested decision and the carrying out of an inspection, and the evidence collected in the procedure before the national body for the protection of economic competition in fact excludes such suspicion.
4. Fourth plea in law, alleging that the Commission did not have power to adopt the contested decision or carry out the inspection, since the alleged anticompetitive conduct of the applicant cannot in any event affect trade between Member States and the applicant cannot in the present case have a dominant position in the internal market or a substantial part of it.
5. Fifth plea in law, alleging that the adoption of the contested decision and the carrying out of an inspection more than four years after the commencement of the procedure before the national body for the protection of economic competition is contrary to the principle of legal certainty and the principle of the protection of legitimate expectations.
6. Sixth plea in law, alleging that the contested decision and the associated approach of the Commission interfered with the applicant's rights guaranteed by Article 7 of the Charter (or Article 8 of the ECHR) and Article 48 of the Charter (or Article 6 of the ECHR).