

Judgment of the General Court of 30 March 2022 — Air France v Commission(Case T-338/17) ⁽¹⁾

(Competition — Agreements, decisions and concerted practices — Market for airfreight — Decision finding an infringement of Article 101 TFEU, Article 53 of the EEA Agreement and Article 8 of the Agreement between the European Community and the Swiss Confederation on Air Transport — Coordination of elements of the price of airfreight services (fuel surcharge, security surcharge, payment of commission on surcharges) — Exchange of information — Territorial jurisdiction of the Commission — Single and continuous infringement — Conditions for granting immunity — Equal treatment — Obligation to state reasons — Amount of the fine — Value of sales — Gravity of the infringement — Duration of the participation in the infringement — Mitigating circumstances — Encouragement of the anticompetitive conduct by public authorities — Proportionality — Unlimited jurisdiction)

(2022/C 207/36)

Language of the case: French

Parties

Applicant: Société Air France (Tremblay-en-France, France) (represented by: A. Wachsmann and A. de La Cotardière, lawyers)

Defendant: European Commission (represented by: A. Dawes and C. Giolito, acting as Agents, and by N. Coutrelis, lawyer)

Re:

Application under Article 263 TFEU for annulment of Commission Decision C(2017) 1742 final of 17 March 2017 relating to a proceeding under Article 101 TFEU, Article 53 of the EEA Agreement and Article 8 of the Agreement between the European Community and the Swiss Confederation on Air Transport (Case AT.39258 — Airfreight) in so far as it relates to the applicant and, in the alternative, for partial annulment of that decision and a reduction in the amount of the fine imposed on the applicant.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders the European Commission to bear one third of its own costs;
3. Orders Société Air France to bear its own costs and to pay two thirds of the costs incurred by the Commission.

⁽¹⁾ OJ C 277, 21.8.2017.

Judgment of the General Court of 30 March 2022 — Japan Airlines v Commission(Case T-340/17) ⁽¹⁾

(Competition — Agreements, decisions and concerted practices — Market for airfreight — Decision finding an infringement of Article 101 TFEU, Article 53 of the EEA Agreement and Article 8 of the Agreement between the European Community and the Swiss Confederation on Air Transport — Coordination of elements of the price of airfreight services (fuel surcharge, security surcharge, payment of commission on surcharges) — Exchange of information — Territorial jurisdiction of the Commission — Article 266 TFEU — Limitation period — Rights of the defence — Non-discrimination — Single and continuous infringement — Amount of the fine — Value of sales — Gravity of the infringement — Additional amount — Mitigating circumstances — Encouragement of the anticompetitive conduct by public authorities — Substantially limited involvement — Proportionality — Unlimited jurisdiction)

(2022/C 207/37)

Language of the case: English

Parties

Applicant: Japan Airlines Co. Ltd (Tokyo, Japan) (represented by: J.-F. Bellis and K. Van Hove, lawyers, and R. Burton, Solicitor)

Defendant: European Commission (represented by: A. Dawes, G. Koleva and C. Urraca Caviedes, acting as Agents, and by J. Holmes QC)

Re:

Application under Article 263 TFEU for annulment of Commission Decision C(2017) 1742 final of 17 March 2017 relating to a proceeding under Article 101 TFEU, Article 53 of the EEA Agreement and Article 8 of the Agreement between the European Community and the Swiss Confederation on Air Transport (Case AT.39258 — Airfreight) in so far as it relates to the applicant and, in the alternative, for a reduction in the amount of the fine imposed on the applicant.

Operative part of the judgment

The Court:

1. Annuls Article 1(1)(h) and (4)(h) of Commission Decision C(2017) 1742 final of 17 March 2017 relating to a proceeding under Article 101 TFEU, Article 53 of the EEA Agreement and Article 8 of the Agreement between the European Community and the Swiss Confederation on Air Transport (Case AT.39258 — Airfreight);
2. Sets the amount of the fine imposed on Japan Airlines Co. Ltd in Article 3(h) of that decision at EUR 28 875 000;
3. Dismisses the action as to the remainder;
4. Orders Japan Airlines to bear one third of its own costs;
5. Orders the European Commission to bear its own costs and to pay two thirds of the costs incurred by Japan Airlines.

⁽¹⁾ OJ C 239, 24.7.2017.

Judgment of the General Court of 30 March 2022 — British Airways v Commission

(Case T-341/17) ⁽¹⁾

(Competition — Agreements, decisions and concerted practices — Market for airfreight — Decision finding an infringement of Article 101 TFEU, Article 53 of the EEA Agreement and Article 8 of the Agreement between the European Community and the Swiss Confederation on Air Transport — Coordination of elements of the price of air freight services (fuel surcharge, security surcharge, payment of commission on surcharges) — Exchange of information — Territorial jurisdiction of the Commission — Obligation to state reasons — Article 266 TFEU — State coercion — Single and continuous infringement — Amount of the fine — Value of sales — Duration of participation in the infringement — Mitigating circumstances — Encouragement of anticompetitive conduct by public authorities — Unlimited jurisdiction)

(2022/C 207/38)

Language of the case: English

Parties

Applicant: British Airways plc (Harmondsworth, United Kingdom) (represented by: J. Turner, R. O'Donoghue QC, and A. Lyle-Smythe, Solicitor)

Defendant: European Commission (represented by: N. Khan and A. Dawes, acting as Agents, and A. Bates, Barrister)

Re:

Application under Article 263 TFEU for annulment of Commission Decision C(2017) 1742 final of 17 March 2017 relating to a proceeding under Article 101 TFEU, Article 53 of the EEA Agreement and Article 8 of the Agreement between the European Community and the Swiss Confederation on Air Transport (Case AT.39258 — Airfreight) in so far as it relates to the applicant and, in the alternative, for cancellation of the fine imposed on the applicant or for a reduction in the amount thereof.