

Judgment of the Court (Fourth Chamber) of 16 June 2022 — Toshiba Samsung Storage Technology Corp., Toshiba Samsung Storage Technology Korea Corp. v European Commission

(Case C-700/19 P) ⁽¹⁾

(Appeal — Competition — Agreements, decisions and concerted practices — Optical disk drives — Decision finding an infringement of Article 101 TFEU and of Article 53 of the Agreement on the European Economic Area of 2 May 1992 — Single and continuous infringement — Definition — Collusive agreements relating to procurement events concerning optical disk drives for notebook and desktop computers organised by two computer manufacturers)

(2022/C 294/06)

Language of the case: English

Parties

Appellants: Toshiba Samsung Storage Technology Corp., Toshiba Samsung Storage Technology Korea Corp. (represented: initially by A. Aresu, M. Bay, avvocati, and J. Ruiz Calzado, abogado, and subsequently by M. Bay, avvocato, and J. Ruiz Calzado, abogado)

Other party to the proceedings: European Commission (represented by: A. Biolan, M. Farley, F. van Schaik and C. Zois, acting as Agents)

Operative part of the judgment

The Court:

1. Sets aside the judgment of the General Court of the European Union of 12 July 2019, *Toshiba Samsung Storage Technology and Toshiba Samsung Storage Technology Korea v Commission* (T-8/16, EU:T:2019:522);
2. Annuls Article 1(e) of Commission Decision C(2015) 7135 final of 21 October 2015 relating to a proceeding under Article 101 TFEU and Article 53 of the EEA Agreement (Case AT.39639 — Optical disk drives) in so far as it finds that Toshiba Samsung Storage Technology Corp. and Toshiba Samsung Storage Technology Korea Corp. infringed Article 101 TFEU and Article 53 of the Agreement on the European Economic Area of 2 May 1992 by participating, from 23 June 2004 to 17 November 2008, in several separate infringements;
3. Dismisses the action as to the remainder;
4. Orders the European Commission to bear its own costs relating to both the proceedings at first instance and the appeal proceedings and to pay all the costs incurred by Toshiba Samsung Storage Technology Corp. and Toshiba Samsung Storage Technology Korea Corp. in the present appeal and half of the costs which they incurred at first instance;
5. Orders Toshiba Samsung Storage Technology Corp. and Toshiba Samsung Storage Technology Korea Corp. to bear half of their own costs relating to the proceedings at first instance.

⁽¹⁾ OJ C 383, 11.11.2019.

Judgment of the Court (Second Chamber) of 16 June 2022 — European Commission v Republic of Austria

(Case C-328/20) ⁽¹⁾

(Failure to fulfil obligations — Coordination of social security systems — Regulation (EC) No 883/2004 — Articles 4, 7 and 67 — Freedom of movement for workers — Regulation (EU) No 492/2011 — Article 7 — Equal treatment — Family benefits — Social and tax advantages — Adjustment of amounts on the basis of price levels in the children's State of residence)

(2022/C 294/07)

Language of the case: German

Parties

Applicant: European Commission (represented by: B.-R. Killmann and D. Martin, acting as Agents)

Interveners in support of the applicant: Czech Republic (represented by: J. Pavliš, M. Smolek and J. Vláčil, acting as Agents), Republic of Croatia (represented by: G. Vidović Mesarek, acting as Agent), Republic of Poland (represented by: B. Majczyna, acting as Agent), Romania (represented by: E. Gane and L. Lițu, acting as Agents), Republic of Slovenia (represented by: J. Morela, acting as Agent), Slovak Republic (represented by: B. Ricziová, acting as Agent), EFTA Surveillance Authority (represented by: E. Gromnicka, C. Howdle, J.S. Watson and C. Zatschler, acting as Agents)

Defendant: Republic of Austria (represented by: M. Klamert, C. Pesendorfer, A. Posch and J. Schmoll, acting as Agents)

Interveners in support of the defendant: Kingdom of Denmark (represented by: M. Jespersen, J. Nymann-Lindegren and M. Wolff, acting as Agents), Kingdom of Norway (represented by: S. Hammersvik, J.T. Kaasin, L. Tvedt and P. Wennerås, acting as Agents)

Operative part of the judgment

The Court:

1. Declares that, by establishing the adjustment mechanism resulting from the amendments to Paragraph 8a of the Bundesgesetz betreffend den Familienlastenausgleich durch Beihilfen (Federal Law on compensation for family expenses by means of allowances) of 24 October 1967, as amended by the Bundesgesetz mit dem das Familienlastenausgleichsgesetz 1967, das Einkommensteuergesetz 1988 und das Entwicklungshelfergesetz geändert werden (Federal Law amending the Federal Law of 1967 on compensation for family expenses by means of allowances, the Federal Law of 1988 on the taxation of the income of natural persons and the Law on the status of development aid workers) of 4 December 2018, and to Paragraph 33 of the Bundesgesetz über die Besteuerung des Einkommens natürlicher Personen (Federal Law on the taxation of the income of natural persons) of 7 July 1988, as amended by the Jahressteuergesetz 2018 (Annual Tax Law of 2018) of 14 August 2018, and by the Federal Law amending the Federal Law of 1967 on compensation for family expenses by means of allowances, the Federal Law of 1988 on the taxation of the income of natural persons and the Law on the status of development aid workers of 4 December 2018 applicable to family allowances and the child tax credit for workers whose children reside permanently in another Member State, the Republic of Austria has failed to fulfil its obligations under Articles 4 and 67 of Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, and under Article 7(2) of Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union;
2. Declares that, by establishing the adjustment mechanism resulting from the amendments to Paragraph 8a of the Bundesgesetz betreffend den Familienlastenausgleich durch Beihilfen (Federal Law on compensation for family expenses by means of allowances) of 24 October 1967, as amended by the Bundesgesetz mit dem das Familienlastenausgleichsgesetz 1967, das Einkommensteuergesetz 1988 und das Entwicklungshelfergesetz geändert werden (Federal Law amending the Federal Law of 1967 on compensation for family expenses by means of allowances, the Federal Law of 1988 on the taxation of the income of natural persons and the Law on the status of development aid workers) of 4 December 2018, and to Paragraph 33 of the Bundesgesetz über die Besteuerung des Einkommens natürlicher Personen (Federal Law on the taxation of the income of natural persons) of 7 July 1988, as amended by the Jahressteuergesetz 2018 (Annual Tax Law of 2018) of 14 August 2018, and by the Federal Law amending the Federal Law of 1967 on compensation for family expenses by means of allowances, the Federal Law of 1988 on the taxation of the income of natural persons and the Law on the status of development aid workers of 4 December 2018 applicable to the Family Bonus Plus, the sole earner's allowance, the single parent's allowance and the tax credit for maintenance payments, for migrant workers whose children reside permanently in another Member State, the Republic of Austria has failed to fulfil its obligations under Article 7(2) of Regulation No 492/2011;
3. Orders the Republic of Austria to bear its own costs and to pay those incurred by the European Commission;
4. Orders the Czech Republic, the Kingdom of Denmark, the Republic of Croatia, the Republic of Poland, Romania, the Republic of Slovenia and the Slovak Republic, and the Kingdom of Norway and the EFTA Surveillance Authority to bear their own costs.

(¹) OJ C 297, 7.9.2020.