

Other party to the proceedings: Commission of the European Communities (represented by: A. Bouquet and X. Lewis, Agents)

Re:

Appeal against the judgment of the Court of First Instance (Third Chamber) of 27 September 2006 in Case T-329/01 *Archer Daniels Midland Co. v Commission*, by which the Court dismissed an action for annulment of Articles 1 and 3 of Commission Decision C(2001)2931 final of 2 October 2001 relating to a proceeding under Article 81 of the EC Treaty and Article 53 of the EEA Agreement (Case COMP/E-1/36.756 — Sodium Gluconate) and, in the alternative, for a reduction in the fine imposed on the applicant

Operative part of the judgment

The Court:

1. Dismisses the appeal;
2. Orders *Archer Daniels Midland Co.* to pay the costs.

⁽¹⁾ OJ C 56, 10.3.2007.

Judgment of the Court (Second Chamber) of 26 March 2009 — *Selex Sistemi Integrati SpA. v Commission of the European Communities, European Organisation for the Safety of Air Navigation (Eurocontrol)*

(Case C-113/07 P) ⁽¹⁾

(*Appeals — Competition — Article 82 EC — Concept of an ‘undertaking’ — Economic activity — International organisation — Abuse of a dominant position*)

(2009/C 113/06)

Language of the case: Italian

Parties

Appellant: Selex Sistemi Integrati SpA (represented by: F. Sciaudone, R. Sciaudone and D. Fioretti, avvocati)

Other parties to the proceedings: Commission of the European Communities, European Organisation for the Safety of Air Navigation (Eurocontrol) (represented by: F. Montag and T. Wessely, Rechtsanwälte)

Re:

Appeal against the judgment of the Court of First Instance (Second Chamber) delivered on 12 December 2006 in Case T-155/04 *Selex Sistemi Integrati v Commission* by which that Court dismissed an application for annulment or amendment of the Commission's decision of 12 February 2004 rejecting the complaint lodged by Selex concerning an alleged infringement by Eurocontrol of the provisions of the EC Treaty relating to competition

Operative part of the judgment

The Court:

1. Dismisses the appeal;
2. Orders *Selex Sistemi Integrati SpA* to pay, in addition to its own costs, those incurred by the Commission of the European Communities and half the costs incurred by the European Organisation for the Safety of Air Navigation (Eurocontrol);
3. Orders the European Organisation for the Safety of Air Navigation to pay half its own costs.

⁽¹⁾ OJ C 117, 26.5.2007.

Judgment of the Court (Grand Chamber) of 10 March 2009 (reference for a preliminary ruling from the Verwaltungsgerichtshof (Austria)) — *Hartlauer Handelsgesellschaft mbH v Wiener Landesregierung, Oberösterreichische Landesregierung*

(Case C-169/07) ⁽¹⁾

(*Freedom of establishment — Social security — National health system financed by the State — System of benefits in kind — System of reimbursement of costs paid by the person insured — Authorisation to set up a private outpatient dental clinic — Criterion of assessment of the need to set up a health institution — Objective of maintaining a balanced high-quality medical or hospital service open to all — Objective of preventing a risk of serious harm to the financial balance of the social security system — Consistency — Proportionality*)

(2009/C 113/07)

Language of the case: German

Referring court

Verwaltungsgerichtshof

Parties to the main proceedings

Applicant: Hartlauer Handelsgesellschaft mbH

Defendants: Wiener Landesregierung, Oberösterreichische Landesregierung

Re:

Reference for a preliminary ruling — Verwaltungsgerichtshof — Interpretation of Articles 43 EC and 48 EC — Authorisation of a private hospital to provide outpatient dental medicine — Authorisation subject to an assessment of the needs of the market