

## V

(Announcements)

## COURT PROCEEDINGS

## COURT OF JUSTICE

**Judgment of the Court (First Chamber) of 21 July 2011 — Kingdom of Sweden v MyTravel Group plc, European Commission**(Case C-506/08 P) <sup>(1)</sup>

*(Appeal — Access to documents of the institutions — Regulation (EC) No 1049/2001 — Article 4(2), second indent, and Article 4(3), second subparagraph — Exceptions to the right of access concerning the protection of court proceedings and legal advice and the decision-making process — Control of concentrations — Commission documents drawn up in the context of a procedure which led to a decision declaring a concentration operation incompatible with the common market — Documents drafted following the annulment of that decision by the General Court)*

(2011/C 269/02)

Language of the case: English

**Parties**

*Appellant:* Kingdom of Sweden (represented by: K. Petkovska and A. Falk, Agents)

*Interveners in support of the applicant:* Kingdom of Denmark (represented by: B. Weis Fogh and V. Pasternak Jørgensen, Agents), Kingdom of the Netherlands (represented by: C. Wissels and J. Langer, Agents), Republic of Finland (represented by: J. Heliskoski, Agent)

*Other parties to the proceedings:* MyTravel Group plc, European Commission (represented by: X. Lewis, P. Costa de Oliveira and C. O'Reilly, Agents)

*Interveners in support of the Commission:* Federal Republic of Germany (represented by: M. Lumma and B. Klein, Agents), French Republic (represented by: E. Belliard, G. de Bergues and A. Adam, Agents), United Kingdom of Great Britain and Northern Ireland (represented by: E. Jenkinson and S. Ossowski, Agents)

**Re:**

Appeal brought against the judgment of the Court of First Instance (Third Chamber, Extended Composition) of 9

September 2008 in Case T-403/05 *MyTravel v Commission*, by which the Court of First Instance rejected an application for the annulment of the decisions of the Commission of 5 September 2005 and 12 October 2005 refusing to grant the applicant access to certain preparatory documents to the decision of 22 September 1999 declaring incompatible with the common market and the functioning of the EEA Agreement the concentration seeking full control of First Choice plc by Airtours plc (Case No IV/M.1524 *Airtours/First Choice*), together with documents drawn up by the Commission's services following the annulment of that decision by judgment of the Court of First Instance of 6 June 2002 in Case T-342/99

**Operative part of the judgment***The Court:*

1. Sets aside point 2 of the operative part of the judgment of the Court of First Instance of the European Communities of 9 September 2008 in Case T 403/05 *MyTravel v Commission*;
2. Annuls Commission Decision D(2005) 8461 of 5 September 2005, dismissing the request by *MyTravel Group plc* for access to certain preparatory documents of the Commission on the control of concentrations inasmuch as it is based on the second subparagraph of Article 4(3) of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents;
3. Annuls Commission Decision D(2005) 9763 of 12 October 2005, partially dismissing the request by *MyTravel Group plc* for access to certain preparatory documents of the Commission on the control of concentrations inasmuch as it is based on the second indent of Article 4(2) and the second subparagraph of Article 4(3) of Regulation No 1049/2001;
4. Refers the case back to the General Court of the European Union for it to rule on the pleas in the action brought before it by *MyTravel Group plc* on which it did not give a ruling;
5. Reserves the costs.

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<sup>(1)</sup> OJ C 55, 7.3.2009.

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