



Reports of Cases

Judgment of the General Court (Eighth Chamber) of 14 November 2012 — Prysmian and Prysmian Cavi e Sistemi Energia v Commission

(Case T-140/09)

(Competition — Administrative procedure — Action for annulment — Acts adopted during an inspection — Intermediate measures — Inadmissibility — Decision ordering an inspection — Duty to state reasons — Protection of privacy — Reasonable grounds — Review by the Court)

1. *Competition — Administrative procedure — Commission's power of inspection — Decision ordering an inspection — Duty to state reasons — Scope — Clear indication of the evidence suggesting an infringement — Judicial review (Council Regulation No 1/2003, Art. 20(4)) (see paras 37, 38, 70)*
2. *Competition — Administrative procedure — Commission's power of inspection — Decision ordering an inspection — Duty to state reasons — Scope — Obligation to indicate the sectors covered by the alleged infringement — Exclusion of the obligation to define the market concerned by the inspection (Council Regulation No 1/2003, Art. 20(4)) (see para. 40)*
3. *Competition — Administrative procedure — Commission's power of inspection — Limits — Use of documents or information for the purposes of the investigation — Use concerning only the business sectors indicated in the decision ordering the inspection (Council Regulation No 1/2003, Art. 20(4)) (see paras 62, 63)*
4. *Actions for annulment — Actionable measures — Measures producing binding legal effects — Administrative procedure for applying the competition rules — Measures taken during the inspection procedure — Acts not severable from the decision ordering the inspection — Inadmissibility (Art. 230 EC; Council Regulation No 1/2003, Art. 18(1) and (3), and Art. 20(2) and (4)) (see paras 99, 102, 108)*
5. *Actions for annulment — Jurisdiction of the EU judicature — Claim seeking that directions be issued to an institution — Inadmissibility (Art. 230 EC) (see para. 111)*

Re:

First, application for annulment of Commission Decision C(2009) 92/2 of 9 January 2009 ordering Prysmian SpA and all companies directly or indirectly controlled by it, including Prysmian Cavi e Sistemi Energia Srl, to submit to an inspection in accordance with Article 20, paragraph 4, of Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 [EC] and 82 [EC] (OJ 2003 L 1, p. 1) (Case COMP/39.610); secondly, request seeking that the General Court declare unlawful the decision taken by the Commission during that inspection to copy certain computer files to examine them in its offices and, thirdly, request seeking that the General Court order the Commission to abstain from using any document obtained unlawfully and to return to Prysmian and to Prysmian Cavi e Sistemi Energia the documents obtained unlawfully.

Operative part

The Court:

1. Annuls Commission decision C(2009) 92/2 of 9 January 2009 ordering Prysmian SpA and all companies directly or indirectly controlled by it, including Prysmian Cavi e Sistemi Energia Srl, to submit to an inspection in accordance with Article 20, paragraph 4, of Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 [EC] and 82 [EC], in so far as it concerns electric cables other than high voltage underwater and underground electric cables and the material associated with those other cables;
2. Dismisses the action as to the remainder;
3. Orders Prysmian and Prysmian Cavi e Sistemi Energia to bear their own costs and to pay half of the costs incurred by the European Commission;
4. Orders the European Commission to bear half of its own costs.