

Case C-73/10P

Internationale Fruchtimport Gesellschaft Weichert GmbH & Co. KG

v

European Commission

(Appeal — Competition — Commission decision relating to a proceeding under Article 81 EC — Action for annulment — Time-limit — Action brought out of time — Reasons justifying derogation from the time-limit for bringing proceedings — Right of access to a court — Principles of legality and proportionality — Appeal clearly unfounded)

Order of the Court (Eighth Chamber), 16 November 2010 I - 11538

Summary of the Order

1. *Procedure — Time-limits for bringing proceedings — Claim time-barred — Force majeure (Statute of the Court of Justice, Art. 45)*
2. *Procedure — Time-limits for bringing proceedings — Claim time-barred — Excusable error — Concept — Meaning (Rules of Procedure of the General Court, Art. 101(1)(a) and (b))*
3. *Procedure — Time-limits for bringing proceedings — Claim time-barred — Admissibility in the light of the right of every person to a fair trial (Art. 230 EC)*

1. No derogation from the application of the Union's rules on procedural time-limits may be made save where the circumstances are quite exceptional, in the sense of being unforeseeable or amounting to *force majeure*, in accordance with the second paragraph of Article 45 of the Statute of the Court of Justice, given that strict application of those rules serves the requirements of legal certainty and the need to avoid any discrimination or arbitrary treatment in the administration of justice.

of Article 101(1)(a) and (b) of the General Court's Rules of Procedure is clear and presents no particular difficulty of interpretation. Accordingly, the fact that the failure to comply with the time-limit is solely due to an error by the appellant's lawyer cannot be regarded as an excusable error which would permit derogation from the rules relating to the time-limits for bringing actions.

(see paras 42, 45, 57)

(see para. 41)

2. In the context of the Union's rules on time-limits for instituting proceedings, the concept of excusable error justifying a derogation from those rules can concern only exceptional circumstances in which, in particular, the conduct of the institution concerned has been, either alone or to a decisive extent, such as to give rise to a pardonable confusion in the mind of the party acting in good faith and displaying all the diligence required of a normally well-informed person. That is not so in a case relating to a Commission decision imposing a fine under Article 81 EC in which an error was made in calculating the time-limits for commencing proceedings, since the wording
3. The principle established by Article 6 of the European Convention on Human Rights, namely to ensure that every person has a fair trial, which is recognised by the legal order of the Union, does not preclude the setting of a time-limit for the institution of legal proceedings.

The right to effective judicial protection is in no way undermined by the strict application of the European Union's rules on procedural time-limits, which serves

the requirements of legal certainty and the need to avoid any discrimination or arbitrary treatment in the administration of justice. Indeed, while the two-month time-limit in question constitutes, admittedly, a limitation of the right of access to a court, that limitation clearly does not constitute an impairment to the very essence of that right, since the rules relating to the calculation of that time-limit are clear and present no particular difficulty of interpretation.

Derogation from those rules cannot be justified by the fact that fundamental rights are at stake. Indeed, the rules concerning time-limits for bringing proceedings are mandatory and must be applied by the court in question in such a way as to safeguard legal certainty and equality of persons before the law.

(see paras 48-50, 56)