



## Reports of Cases

### Judgment of the Court (Seventh Chamber) of 19 December 2012 — Bavaria v Commission

(Case C-445/11 P)

(Appeal — Competition — Agreements, decisions and concerted practices — Dutch beer market — Commission decision finding an infringement of Article 81 EC — Fines — Duration of the administrative procedure — Level of the fine)

1. *Appeals — Grounds — Review by the Court of the assessment of the facts and evidence — Possible only where the clear sense of the evidence has been distorted — Plea alleging distortion of the clear sense of the evidence — Necessity of indicating precisely the evidence alleged to have been distorted and showing the errors of appraisal which led to that distortion (Art. 256(1), second para. TFEU; Statute of the Court of Justice, Art. 58, first para.; Rules of Procedure of the Court of Justice, Art. 169(2)) (see paras 23, 24, 27, 28, 123)*
2. *Appeals — Grounds — Mere repetition of the pleas and arguments put forward before the Court of First Instance — Error of law relied on not identified — Inadmissibility (Art. 256(1) TFEU; Statute of the Court of Justice, Art. 58, first para.; Rules of Procedure of the Court of Justice, Art. 169(2)) (see paras 93-95)*
3. *Competition — Fines — Amount — Determination — Criteria — Gravity of the infringement — No binding or exhaustive list of criteria — Commission's margin of discretion — Raising of the general level of fines — Lawfulness (Art. 81 EC; Council Regulation No 1/2003, Art. 23(2) and (3)) (see paras 53-55, 57-59, 73, 74)*
4. *Competition — Administrative procedure — Obligations of the Commission — Duty to act within a reasonable time (Council Regulation No 1/2003) (see para. 77)*
5. *Appeals — Grounds — Plea submitted for the first time in the context of the appeal — Inadmissibility (Art. 256(1), second para. TFEU; Statute of the Court of Justice, Art. 58, first para.; Rules of Procedure of the Court of Justice, Art. 170) (see paras 98-100)*

**Re:**

Appeal brought against the judgment delivered by the General Court (Sixth Chamber, Extended Composition) on 16 June 2011 in Case T-235/07 *Bavaria v Commission* by which the General Court annulled Article 1 of Commission Decision C(2007) 1697 of 18 April 2007 relating to a proceeding under Article 81 [EC] (Case COMP/B/37.766 — Dutch beer market) in so far as the European Commission found that Bavaria NV had participated in an infringement consisting in the occasional coordination of commercial conditions, other than prices, offered to individual consumers in the on-trade segment in the Netherlands.

**Operative part:**

The Court:

1. Dismisses the appeal;
2. Orders Bavaria NV to pay the costs.