



Reports of Cases

Judgment of the Court (Seventh Chamber) of 19 December 2012 — Heineken Nederland and Heineken v Commission

(Case C-452/11 P)

(Appeal — Competition — Agreements, decisions and concerted practices — Dutch beer market — Commission decision establishing a breach 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 28, 43, 44, 47, 48, 70-73)*
2. *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 92, 93, 107-109, 111-113)*
3. *Competition — Administrative procedure — Obligations of the Commission — Duty to act within a reasonable time (Council Regulation No 1/2003) (see para. 97)*
4. *Appeals — Jurisdiction of the Court — Challenge on grounds of fairness to the General Court's assessment concerning the amount of a fine imposed on an undertaking — Not included (Arts 81 EC and 82 EC; Art. 256(1) TFEU; Council Regulation No 1/2003, Art. 23(2)) (see para. 125)*

Re:

Appeal brought against the judgment delivered by the General Court (Sixth Chamber, Extended Composition) on 16 June 2011 in Case T-240/07 *Heineken Nederland and Heineken 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 Heineken NV and Heineken Nederland BV had participated in an infringement consisting in the occasional coordination of commercial conditions, other than prices, offered to individual consumers in the 'on-trade' sector in the Netherlands.

Operative part

The Court:

1. Dismisses the appeal;
2. Orders Heineken Nederland BV and Heineken NV to pay the costs.