



Reports of Cases

Order of the Court (Sixth Chamber) of 13 December 2012 — *Transcatab v Commission*

(Case C-654/11 P)

(Appeal — Competition — Agreements, decisions and concerted practices — Italian market for the purchasing and primary processing of raw tobacco — Price fixing and market sharing — Attribution of liability for the unlawful conduct of a subsidiary to its parent company — Presumption of innocence — Rights of the defence — Obligation to state the reasons on which a decision is based — Principle of equal treatment)

1. *Appeals — Grounds — Mere repetition of the pleas and arguments put forward before the General Court — Error of law relied on not identified — Inadmissibility (Art. 256 TFEU; Statute of the Court of Justice, Art. 58, first para.) (see para. 22)*
2. *Appeals — Grounds — Mistaken assessment of the facts — Inadmissibility — Review by the Court of Justice of the assessment of the facts put before the General Court — Possible only where the clear sense of the evidence has been distorted (Art. 256 TFEU; Statute of the Court of Justice, Art. 58, first para.) (see paras 23, 24, 48, 58)*
3. *Competition — EU rules — Infringements — Attribution — Parent company and subsidiaries — Economic unit — Criteria for assessment — Presumption that a parent company exerts a decisive influence over its wholly-owned subsidiaries — Whether rebuttable — Evidence capable of reversing that presumption (Arts 101 TFEU and 102 TFEU; Council Regulation No 1/2003, Art. 23(2)) (see paras 29-32, 37)*

Re:

Appeal brought against the judgment of the General Court (Third Chamber) of 5 October 2011 in Case T-39/06 *Transcatab v Commission*, in which the General Court dismissed the application for the partial annulment of Commission Decision C (2005) 4012 final of 20 October 2005 relating to a proceeding under Article 81(1) [EC] (Case COMP/C.38.281/B.2 — Raw tobacco — Italy) and for a reduction of the fine imposed on Transcatab by that decision and the counterclaim by the Commission seeking to increase that fine — Italian market for the purchasing and primary processing of raw tobacco — Attribution of liability to a parent company for infringements of competition rules committed by its subsidiaries — Rebuttable presumption in the case of a 100% shareholding — Fundamental principles governing the taking of evidence — Obligation to state the reasons on which a decision is based — Rights of the defence — Principle of equal treatment.

Operative part

1. The appeal is rejected.
2. Transcatab SpA is ordered to pay the costs.