



Reports of Cases

JUDGMENT OF THE COURT (Fifth Chamber)

25 June 2014*

(Appeal — Competition — Regulation (EC) No 1/2003 — Administrative procedure — Inspection — Decision ordering an inspection — Obligation to state reasons — Reasonable grounds — Geographic market)

In Case C-37/13 P,

APPEAL under Article 56 of the Statute of the Court of Justice of the European Union, brought on 24 January 2013,

Nexans SA, established in Paris (France),

Nexans France SAS, established in Paris,

represented by M. Powell, Solicitor, J.-P. Tran-Thiet, avocat, G. Forwood, Barrister, and A. Rogers, Solicitor,

appellants,

the other party to the proceedings being:

European Commission, represented by R. Sauer, J. Bourke and N. von Lingen, acting as Agents, with an address for service in Luxembourg,

defendant at first instance,

THE COURT (Fifth Chamber),

composed of T. von Danwitz, President of the Chamber, E. Juhász, A. Rosas, D. Šváby and C. Vajda (Rapporteur), Judges,

Advocate General: J. Kokott,

Registrar: L. Hewlett, Principal Administrator,

having regard to the written procedure and further to the hearing on 26 February 2014,

after hearing the Opinion of the Advocate General at the sitting on 3 April 2014,

gives the following

* Language of the case: English.

Judgment

- 1 By their appeal, Nexans SA ('Nexans') and Nexans France SAS ('Nexans France'), seek to have set aside the judgment of the General Court of the European Union in *Nexans France and Nexans v Commission*, T-135/09, EU:T:2012:596 ('the judgment under appeal'), by which that court partially dismissed their action for annulment of Commission Decision C(2009) 92/1 of 9 January 2009 ordering Nexans and its subsidiary Nexans France 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) ('the decision at issue') and of several decisions adopted in the course of that inspection.

Legal context

- 2 Article 4 of Regulation (EC) No 1/2003, headed 'Powers of the Commission', provides:

'For the purpose of applying Articles 81 [EC] and 82 [EC], the Commission shall have the powers provided for by this Regulation.'

- 3 Article 20 of that regulation, headed 'The Commission's powers of inspection', states:

'1. In order to carry out the duties assigned to it by this Regulation, the Commission may conduct all necessary inspections of undertakings and associations of undertakings.

...

4. Undertakings and associations of undertakings are required to submit to inspections ordered by decision of the Commission. The decision shall specify the subject matter and purpose of the inspection, appoint the date on which it is to begin and indicate the penalties provided for in Articles 23 and 24 and the right to have the decision reviewed by the Court of Justice. The Commission shall take such decisions after consulting the competition authority of the Member State in whose territory the inspection is to be conducted. ...'

Background to the dispute and the contested decision

- 4 The General Court summarised the background to the case as follows at paragraphs 1 to 5 of the judgment under appeal:

'1 The applicants — [Nexans] and its wholly-owned subsidiary [Nexans France] — are two French companies which carry out their activities in the electric cable sector.

2 By [the decision at issue], the Commission of the European Communities ordered Nexans and all companies directly or indirectly controlled by it, including Nexans France, to submit to an inspection in accordance with Article 20(4) of [Regulation No 1/2003].

3 Article 1 of the [decision at issue] is worded as follows:

'... Nexans ..., together with all the companies it directly or indirectly controls, including Nexans France ..., is obliged to submit to an inspection in relation to its (their) potential participation in anti-competitive agreements and/or concerted practices contrary to Article 81 EC ... in relation to the supply of electric cables and material associated with such supply, including, amongst others, high voltage underwater electric cables, and, in certain cases, high voltage underground electric cables.

Those agreements and/or concerted practices consist of the offering of concerted bids in public tenders, client allocation, as well as the illegal exchange of commercially-sensitive information relating to the supply of those products.

The inspection can take place at all the premises controlled by the company ...

... Nexans ..., together with all the companies it directly or indirectly controls, including Nexans France ..., authorises the officials and other persons mandated by the Commission to proceed with an inspection, and it authorises the officials and other persons mandated by the competition authority of the Member State or nominated by the latter to this effect to help them access all the premises and means of transport during normal office hours. It submits to inspection of the books as well as any other professional document, whichever its medium, if the officials or persons mandated request this and will allow them to examine these documents at the premises and to take or obtain under any format a copy or an extract of those books or documents. It authorises the sealing of all commercial premises and books or documents for the duration of the inspection and to the extent necessary for the purposes of the inspection. It immediately gives, at the premises, oral explanations relating to the subject-matter and purpose of the inspection if those officials or persons ask for such explanations and authorises any representative or member of staff to give such explanations. It authorises the recording of those explanations under whichever format.”

4 In Article 2 of the [decision at issue], the Commission states that the inspection can start on 28 January 2009. In Article 3 of that decision, it indicates that the [decision at issue] will be notified to the recipient undertaking immediately before the inspection.

5 The following reasons are given for the [decision at issue]:

“The Commission received information that electric cable suppliers, including the companies targeted in this decision, were participating or had participated in agreements and/or concerted practices in relation to the supply of electric cables and material associated with such supply, including, amongst others, high voltage underwater electric cables, and, in certain cases, high voltage underground electric cables. Those agreements and/or concerted practices consist of the offering of concerted bids in public tenders, client attribution, as well as the illegal exchange of commercially-sensitive information relating to the supply of those products.

...

According to the information received by the Commission, th[ose] agreements and/or concerted practices ..., which were put in place by 2001 at the latest, still exist today. ... [They] probably have a global reach.

Should those allegations prove to be well-founded, the agreements and/or concerted practices described above would account for very serious infringements under Article 81 EC.

In order to enable the Commission to check all the facts in relation to the presumed agreements and concerted practices and the context in which they took place, it is necessary to carry out inspections pursuant to Article 20 of Regulation ... No 1/2003.

...”

The proceedings before the General Court and the judgment under appeal

- 5 By application lodged at the Registry of the General Court on 7 April 2009, Nexans and Nexans France sought the annulment of the decision at issue and of acts taken by the Commission during the inspection. They also requested that the General Court order measures against the Commission in the event that the decision at issue and the acts taken by the Commission during the inspection concerned should be annulled.
- 6 In support of their application, the appellants raised a single plea, alleging infringement of Article 20(4) of Regulation No 1/2003 and of fundamental rights, namely: the rights of the defence, the right to a fair trial, the privilege against self-incrimination, the presumption of innocence and the right to respect for privacy. By that plea, divided into two parts, the appellants criticised the Commission, first, for the overly broad and vague range of products covered by the decision at issue and, secondly, for the overly broad geographical scope of that decision.
- 7 At paragraph 94 of the judgment under appeal, the General Court upheld the first part of the single plea, in so far as it concerned electric cables other than high voltage underwater and underground electric cables and the material associated with those other cables, after concluding, at paragraph 91 of the judgment under appeal, that the Commission had not demonstrated that it had reasonable grounds for ordering an inspection covering all electric cables and the material associated with those cables. The General Court rejected the first part of that plea as to the remainder.
- 8 So far as concerns the second part of that plea, the General Court held as follows at paragraphs 97 to 99:
 - ‘97 Contrary to the assertions made by the applicants, by indicating that the suspected agreements and/or concerted practices “probably have a global reach”, the Commission described in sufficient detail the geographical scope of the suspected cartel. The [decision at issue] must therefore be regarded as sufficiently precise so far as concerns the geographical scope of the possible infringements of competition law suspected by the Commission.
 - 98 However, it is possible to interpret the applicants’ arguments as criticising the Commission, not for having identified too vaguely the geographical scope of the suspected cartel, but because it might have treated as coming within the scope of the [decision at issue] documents relating to local geographical markets outside the common market, without specifying why conduct on the part of the undertaking at issue on those markets could distort competition in the common market.
 - 99 It must be observed in this connection that the actual title of Regulation No 1/2003 shows that the purpose of the powers conferred on the Commission by that regulation is the implementation of the competition rules laid down in Articles 81 EC and 82 EC. Those two provisions prohibit certain conduct on the part of undertakings in so far as it may affect trade between Member States and in so far as it has as its object or effect the prevention, restriction or distortion of competition within the internal market. Accordingly, the Commission can use its powers of inspection only for the purposes of detecting such conduct. The Commission thus cannot carry out an inspection at the premises of an undertaking if it suspects that there is an agreement or a concerted practice which produces effects exclusively on one or more markets outside the common market. On the other hand, there is nothing to prevent it from examining documents relating to those markets in order to detect conduct which is liable to affect trade between Member States and which has as its object or effect the prevention, restriction or distortion of competition within the common market.’
- 9 At point 100 of the judgment under appeal, the General Court therefore rejected the second part of the single plea.

- 10 Furthermore, the General Court dismissed as inadmissible the application for annulment of the acts taken by the Commission during the inspection, and also declared manifestly inadmissible the request by the appellants claiming that the General Court should make a statement as to any consequences of the annulment of the decision at issue and of the acts taken by the Commission during the inspection.
- 11 Consequently, the General Court upheld the action for annulment of the decision at issue so far as it concerned electric cables other than high voltage underwater and underground electric cables and the material associated with those other cables and dismissed the action as to the remainder.
- 12 As regards the costs, the General Court ordered Nexans and Nexans France to bear their own costs and to pay half of the costs incurred by the Commission. The Commission was ordered to bear half of its own costs.

Forms of order sought by the parties before the Court of Justice

- 13 Nexans and Nexans France claim that the Court of Justice should:
- set aside the judgment under appeal in so far as it rejected the second branch of the first plea, alleging that the geographical scope of the decision at issue was overly broad and insufficiently precise;
 - annul the decision at issue, in so far as its geographical scope is overly broad and in so far as it is neither sufficiently justified nor sufficiently precise or, in the alternative, refer the case back to the General Court;
 - set aside the judgment under appeal in so far as it orders the appellants, in addition to bearing their own costs, to pay half of the costs incurred by the Commission and order the Commission to pay the costs incurred by the appellants in the proceedings before the General Court in an amount held by the Court to be appropriate; and
 - order the Commission to pay the costs.
- 14 The Commission contends that the Court of Justice should:
- dismiss the appeal; and
 - order Nexans and Nexans France to pay the costs.

The appeal

- 15 Nexans and Nexans France are putting forward two grounds in support of their appeal. By the first ground of appeal, they allege that the General Court erred in law by rejecting their argument relating to the overly broad and vague geographical scope of the decision at issue. By the second ground of appeal, they allege that the General Court erred in ordering them, in addition to bearing their own costs, to pay half of the costs incurred by the Commission.

The first ground of appeal

- 16 The first ground of appeal raised by Nexans and Nexans France, directed against paragraphs 95 and 100 of the judgment under appeal, is divided, essentially, into two parts. The first part of that ground alleges infringement of the requirements to state reasons concerning the geographical scope of

the decision at issue. The second part of that plea alleges that the General Court erred in omitting to investigate whether the Commission had reasonable grounds for suspecting an infringement that probably had a global reach.

The first part of the first ground of appeal, alleging infringement of the requirements to state reasons concerning the geographical scope of the decision at issue

– Arguments of the parties

- 17 First, Nexans and Nexans France allege that the General Court failed comply with the obligation to state reasons for its judgment, pursuant to Article 36 of the Statute of the Court of Justice of the European Union, applicable to the General Court under the first paragraph of Article 53 of that Statute and Article 81 of the Rules of Procedure of the General Court, inasmuch as it failed to explain adequately, at paragraph 97 of the judgment under appeal, how it had reached the conclusion that the Commission had described in sufficient detail the geographical scope of the suspected cartel by indicating that the suspected agreements and/or concerted practices ‘probably have a global reach’. They claim that the General Court did not examine their argument that, because of the very localised nature of the cable projects outside the European Union or the European Economic Area (EEA) and the specific characteristics of the cable projects, it was not possible to regard anti-competitive conduct relating to projects located outside the common market as having any effect on that market.
- 18 Secondly, Nexans and Nexans France allege that the General Court failed to observe the requirements applicable to the statement of reasons for an inspection decision in that it rejected their argument alleging a lack of precision in the decision at issue concerning the geographical scope of the suspected infringement.
- 19 In that regard, first, the appellants claim that the General Court failed to have regard to the case-law according to which the Commission is required to indicate in an inspection decision the market presumed to be at issue, in so far as that institution, in the decision at issue, failed to explain what it meant by ‘suspected agreements and/or concerted practices [which] probably have a global reach’. Secondly, they observe that, contrary to settled case-law, the General Court did not require the Commission to indicate in the decision at issue the presumed facts it intended to investigate and, in particular, whether it was investigating a ‘stay at home’ agreement or other conduct outside the common market which it suspected of having an effect on the common market. In addition, Nexans and Nexans France submit that the lack of precision in the decision at issue on the issue of how the suspected anti-competitive conduct linked to projects located outside the common market could have had an effect within the European Union or the EEA prejudiced their right of the defence and prevented them from understanding the exact scope of their obligation to cooperate.
- 20 The Commission contests the arguments put forward by the appellants in the first part of the first ground of appeal.

– Findings of the Court

- 21 In connection with the first part of the first ground of appeal raised by Nexans and Nexans France, as regards the first argument submitted by those parties alleging insufficient reasons in the judgment under appeal concerning the arguments put forward by the appellants as to the geographical scope of the suspected infringement, it is settled case-law that the obligation for the General Court, under Article 36 of the Statute of the Court of Justice, applicable to the General Court by virtue of the first paragraph of Article 53 thereof and Article 81 of the Rules of Procedure of the General Court, to state reasons does not require the General Court to provide an account which follows exhaustively and one by one all the arguments put forward by the parties to the case. The reasoning of the

General Court may therefore be implicit on condition that it enables the persons concerned to know the reason for the General Court's decision and provides the Court of Justice with sufficient material for it to exercise its power of review (see, inter alia, *France v Commission*, C-601/11 P, EU:C:2013:465, paragraph 83, and *Dow Chemical and Others v Commission*, C-499/11 P, EU:C:2013:482, paragraph 56).

- 22 It is therefore in the light of those principles that the first argument should be considered.
- 23 Although the reasoning concerning the definition of the geographical scope of the suspected infringement appears brief in comparison with the analysis made by the General Court in the judgment under appeal of the definition of the products concerned, it must be stated, as the Advocate General observed in point 31 of her Opinion, that the question of the geographical scope of the suspected infringement was not the focal point of the submissions of the appellants, who concentrated the main thrust of their submissions on the range of products covered by the decision at issue. Thus, to the extent that the grounds of the judgment under appeal concerning the geographical scope of the suspected infringement allowed the interested parties to understand the General Court's reasoning and provided the Court of Justice with sufficient material for it to exercise its power of review, the General Court cannot be criticised merely because those grounds are brief.
- 24 In fact, despite this brevity, the General Court expressly examined the arguments of the appellants concerning the vagueness of the geographical scope of the suspected cartel and gave sufficient reasons for the judgment under appeal in that it concluded that the Commission had described in sufficient detail the geographical scope of the suspected cartel.
- 25 It is apparent from paragraphs 95 to 100 of that judgment that the General Court examined the arguments of the appellants as to the overly broad geographical scope of the decision at issue. It concluded, at paragraph 97 of the judgment under appeal, that, by indicating that the suspected agreements and/or concerted practices 'probably [had] a global reach', the Commission had described in sufficient detail the geographical scope of the suspected cartel. Consequently, the General Court considered the geographical scope of the suspected infringement to have been set out with sufficient precision in the decision at issue.
- 26 Furthermore, at paragraphs 98 and 99 of the judgment under appeal, the General Court analysed the arguments of the appellants in so far as those arguments must be understood as criticising the Commission for including within the scope of the contested decision documents relating to local geographical markets outside the common market, without specifying how suspected anti-competitive conduct on those markets could distort competition in the common market.
- 27 In that context, the General Court observed, at paragraph 99 of the judgment under appeal, that the purpose of the powers conferred on the Commission by Regulation No 1/2003 is the implementation of the competition rules laid down in Articles 81 EC and 82 EC, which prohibit certain conduct on the part of undertakings in so far as it may affect trade between Member States and as it has as its object or effect the prevention, restriction or distortion of competition within the internal market. The General Court inferred from this that, although the Commission may not carry out an inspection at the premises of an undertaking if it suspects that there is an agreement or a concerted practice which produces effects exclusively on one or more markets outside the common market, there is nothing to prevent it from examining documents relating to those markets in order to detect conduct which is liable to affect trade between Member States and which has as its object or effect the prevention, restriction or distortion of competition within the common market.
- 28 In those circumstances, it must be concluded that the General Court explained to the requisite legal standard why it held that the Commission had described in sufficient detail the scope of the suspected cartel by indicating that it 'probably [had] a global reach', even though it rejected only implicitly, by

reference to the limits of the inspection powers conferred on the Commission by Regulation No 1/2003, the arguments of the appellants relating to the very localised nature of the cable projects outside the common market and the specific characteristics of the cable projects.

- 29 The appellants, by their second argument submitted in the first part of the first ground of appeal, criticise the General Court for failing to have regard to the obligations on the Commission to state the reasons for an inspection decision, first, in that it rejected the appellants' argument alleging a lack of precision in the decision at issue concerning the probable global reach of the suspected infringement and, secondly, in that it failed to have regard to the Court's case-law under which the Commission must include in an inspection decision the presumed facts which it intends to investigate.
- 30 The appellants also criticise the General Court for not requiring from the Commission a more detailed indication in the decision at issue as regards how the suspected anti-competitive conduct linked to projects situated outside the common market could have had an effect within the European Union or within the EEA, including an indication of the market presumed to be the relevant market, which prejudiced the appellants' right of defence by preventing them from understanding the exact scope of their obligation to cooperate.
- 31 All that line of argument must be rejected. First of all, the statement of reasons required under Article 296 TFEU for measures of institutions of the European Union must be appropriate to the measure at issue and must disclose in a clear and unequivocal fashion the reasoning followed by the institution which adopted that measure in such a way as to enable the persons concerned to ascertain the reasons for it and to enable the competent Court of the European Union to exercise its jurisdiction to review legality (*Solvay v Commission*, C-455/11 P, EU:C:2013:796, paragraph 90).
- 32 It is also settled case-law that the requirement to state reasons must be assessed by reference to the circumstances of the case, in particular the content of the measure in question, the nature of the reasons given and the interest which the addressees of the measure, or other parties to whom it is of direct and individual concern, may have in obtaining explanations. It is not necessary for the reasoning to specify all the relevant facts and points of law, since the question whether the statement of reasons meets the requirements of Article 296 TFEU must be assessed with regard not only to its wording but also to its context and to all the legal rules governing the matter in question (*Solvay v Commission*, EU:C:2013:796, paragraph 91 and the case-law cited).
- 33 It is also necessary to take into account the legal context in which inspections by the Commission take place. Articles 4 and 20(1) of Regulation No 1/2003 confer inspection powers on the Commission which are designed to enable it to perform its task of protecting the common market from distortions of competition and to penalise any infringements of the competition rules on that market (see, to that effect, *Roquette Frères*, C-94/00, EU:C:2002:603, paragraph 42 and the case-law cited).
- 34 Thus, so far as concerns, specifically, the Commission's inspection decisions, it is apparent from Article 20(4) of Regulation No 1/2003 that those inspection decisions must indicate, inter alia, the subject and the objective of the inspection. That obligation to state specific reasons constitutes, as the Court of Justice has made clear, a fundamental requirement not only to show that the intervention envisaged within the undertakings concerned was proportional, but also to put those undertakings in a position to understand the scope of their duty to cooperate, while at the same time preserving their rights of the defence (see, to that effect, judgment in *Hoechst v Commission*, 46/87 and 227/88, EU:C:1989:337, paragraph 29).
- 35 So far as concerns the argument of Nexans and Nexans France that the General Court failed to have regard to the Commission's obligation to indicate in the decision at issue the market presumed to be the relevant market, which must, according to the appellants, include both a material and a geographical component, it must be recalled that, according to the case-law of the Court of Justice, the Commission is not required to communicate to the addressee of a decision ordering an

investigation all the information at its disposal concerning the presumed infringements, or to make a precise legal analysis of those infringements, providing it clearly indicates the presumed facts which it intends to investigate (judgment in *Dow Chemical Ibérica and Others v Commission*, 97/87 to 99/87, EU:C:1989:380, paragraph 45).

- 36 Although, admittedly, the Commission is obliged to indicate as precisely as possible the evidence sought and the matters to which the investigation must relate (*Roquette Frères*, EU:C:2002:603, paragraph 83 and the case-law cited), it is, on the other hand, not essential in a decision ordering an inspection to define precisely the relevant market, to set out the exact legal nature of the presumed infringements or to indicate the period during which those infringements were committed, provided that that inspection decision contains the essential elements set out above (see, to that effect, *Dow Chemical Ibérica and Others v Commission*, EU:C:1989:380, paragraph 46, and *Roquette Frères*, EU:C:2002:603, paragraph 82).
- 37 Having regard to the fact that inspections take place at the beginning of an investigation, the Commission still lacks, as the Advocate General observes at point 48 of her Opinion, precise information to make a specific legal assessment and must first verify the accuracy of its suspicions and the scope of the incidents which have taken place, the aim of the inspection being specifically to gather evidence relating to a suspected infringement (see, to that effect, *Roquette Frères*, EU:C:2002:603, paragraph 55 and the case-law cited).
- 38 In the present case, it is apparent from the preamble to the decision at issue that the inspection covered ‘agreements and/or concerted practices [which] probably have a global reach’, which were ‘in relation to the supply of electric cables and material associated with such supply, including, amongst others, high voltage underwater electric cables, and, in certain cases, high voltage underground electric cables’. The Commission in that preamble also set out its suspicions relating to ‘client attribution’. Furthermore, it stated that, were its suspicions to prove well-founded, ‘the agreements and/or concerted practices ... would account for very serious infringements under Article 81 EC’.
- 39 Thus, taking account of the information in the decision at issue relating to the geographical dimension of the presumed infringements and of the legal framework governing the Commission’s powers of inspection, it was without disregarding the Court’s case-law that the General Court was able to conclude that the statement of reasons in the decision at issue concerning the geographical scope of the suspected infringement was sufficient, and did not require more details on the type of conduct suspected outside the common market, on the effect such conduct might have on that market or on the type of documents which the Commission was entitled to examine.
- 40 Furthermore, contrary to what the appellants claim, the Commission was not, during its inspection, required to limit its investigations to documents relating to the projects which had an effect on the common market. Taking account of Commission’s suspicions concerning an infringement, which probably had a global reach, involving client attribution, even documents linked to projects located outside the common market were likely to provide relevant information on the suspected infringement.
- 41 Having regard to the foregoing considerations, the first part of the first ground of appeal must be rejected.

The second part of the first ground of appeal, alleging that the Commission did not have reasonable grounds for suspecting an infringement which probably had a global reach

– Arguments of the parties

42 Nexans and Nexans France claim that the General Court failed to examine whether, in the present case, the Commission had reasonable grounds for suspecting that the anticompetitive conduct at issue linked to projects situated outside the common market could have had an effect within the European Union or within the EEA.

43 The Commission disputes those arguments.

– Findings of the Court

44 So far as concerns the second branch of the first ground of appeal, it must be observed that it is apparent from the items in the file that the appellants did not raise before the General Court any argument relating to the lack of reasonable grounds for suspecting an infringement of the competition rules which had a global reach. In this connection, the appellants' representatives admitted, during the hearing, that such an argument had not been expressly raised during those proceedings.

45 According to settled case-law, to allow a party to put forward for the first time before the Court of Justice a plea in law which it has not raised before the General Court would in effect allow that party to bring before the Court of Justice, whose jurisdiction in appeal proceedings is limited, a wider case than that heard by the General Court (judgment in *Alliance One International and Standard Commercial Tobacco v Commission* and *Commission v Alliance One International and Others*, C-628/10 P and C-14/11 P, EU:C:2012:479, paragraph 111, and *Groupe Gascogne v Commission*, C-58/12 P, EU:C:2013:770, paragraph 35).

46 As regards the claim made by the appellants at the hearing that the present argument was impliedly contained in their arguments at first instance, it must be rejected. It is apparent from the items in the file submitted to the General Court that, in another context, as regards the material scope of the decision at issue, the appellants relied, separately from their argument alleging that the decision at issue was vague so far as concerns the definition of the products covered, upon the argument relating to the lack of reasonable grounds for suspecting an infringement in sectors other than high-voltage underwater cables.

47 Consequently, the second part of the first ground of appeal must be rejected as manifestly inadmissible.

48 In the light of the foregoing, the first ground of appeal must be rejected as partly inadmissible and partly unfounded.

The second ground of appeal

Arguments of the parties

49 By their second ground of appeal, directed against paragraph 139 of the judgment under appeal, Nexans and Nexans France submit that the General Court's decision to order them, in addition to bearing their own costs, to pay half of the costs incurred by the Commission is manifestly unreasonable.

50 The Commission contends that this ground of appeal is inadmissible and, in any event, unfounded.

Findings of the Court

- 51 Under the second paragraph of Article 58 of the Statute of the Court of Justice, '[n]o appeal shall lie regarding only the amount of the costs or the party ordered to pay them'. In addition, according to settled case-law, where all the other grounds in an appeal have been rejected, any ground challenging the decision of the General Court on costs must be rejected as inadmissible by virtue of that provision (*Gualtieri v Commission*, C-485/08 P, EU:C:2010:188, paragraph 111 and the case-law cited).
- 52 Therefore, since the first ground of appeal put forward by the appellants has been rejected, the second ground of appeal concerning the division of costs must be declared inadmissible.

Costs

- 53 In accordance with Article 184(2) of the Rules of Procedure of the Court of Justice, where the appeal is unfounded, the Court shall make a decision as to costs.
- 54 Under Article 138(1) of those Rules, which applies to the procedure on appeal by virtue of Article 184(1) of those Rules, the unsuccessful party must be ordered to pay the costs if they have been applied for in the successful party's pleadings. Since the Commission has applied for costs and the appellants have been unsuccessful, the latter must be ordered to pay the costs of the Commission and to bear their own costs.

On those grounds, the Court (Fifth Chamber) hereby:

- 1. Dismisses the appeal;**
- 2. Orders Nexans SA and Nexans France SAS to pay the costs of the present appeal.**

[Signatures]