

Pleas in law and main arguments

The appellant puts forward five grounds of appeal against the judgment of the General Court of 24 November 2011. These relate to the legally erroneous denial in the Commission's decision of 20 May 2009 of the existence of European Union interest and the priority of a investigation procedure relating to the law on cartels.

First, the appellant submits that the General Court erred in law in failing to annul the Commission's decision in so far as that decision deemed it unlikely that it would be possible to establish proof of collective and individual market dominance on the part of inkjet printer manufacturers in relation to their secondary markets for ink cartridges and ink.

Second, the appellant complains that the General Court erred in law in ruling out the likelihood of establishing proof of a dominant position on the part of printer manufacturers on their markets for ink cartridges.

Third, according to the appellant, the General Court manifestly erred in law in its appraisal of the significance of the priority criterion that determines the decision to initiate an investigation. Consequently the General Court erred in law in failing to establish that, in the decision at issue, the Commission infringed its obligation to state the reasons for its decision, in the light of the assessment criteria of the significance, gravity and continuing nature of the infringement.

Fourth, the appellant submits that the judgment is wrong in law as regards the legal assessment of the Commission's appraising decision from the point of view of misuse of powers, in that the Commission's decision was not annulled even though — without giving reasons — it rejected the initiation of an investigation procedure on the pretext of complexity and disproportionate resources.

Finally, the judgment is incompatible with the Notice of 27 April 2004 on jurisdiction in complaint proceedings relating to cartels and on the principle of effective relief as part of the assessment of the European Union interest, as well as with the Commission's obligation to state reasons, culminating in the non-annulment of the Commission decision at issue, notwithstanding the fact that, in its assessment of the European Union interest, the Commission contradicts its own Notice of 27 April 2004 and fails to substantiate the proposition that adequate relief is provided by the national courts.

Reference for a preliminary ruling from the Cour constitutionnelle (Belgium) lodged on 3 February 2012 — Fédération des maisons de repos privées de Belgique (Femarbel) ASBL v Commission communautaire commune

(Case C-57/12)

(2012/C 118/19)

Language of the case: French

Referring court

Cour constitutionnelle

Parties to the main proceedings

Applicant: Fédération des maisons de repos privées de Belgique (Femarbel) ASBL

Defendant: Commission communautaire commune

Question referred

Must the healthcare services referred to in Article 2(2)(f) and the social services referred to in Article 2(2)(j) of Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market ⁽¹⁾ be interpreted in such a way as to exclude from the scope of the Directive day-care centres within the meaning of the ordinance of the Commission communautaire commune of 24 April 2008 on establishments receiving or accommodating old people, in so far as they provide assistance and care appropriate to the loss of independence of old people, and likewise night-care centres within the meaning of the same ordinance, in so far as they provided health assistance and care that cannot be given to old people by their close relatives on a continuous basis?

⁽¹⁾ OJ 2006 L 376, p. 36.

Action brought on 6 February 2012 — European Commission v Republic of Lithuania

(Case C-61/12)

(2012/C 118/20)

Language of the case: Lithuanian

Parties

Applicant: European Commission (represented by: A. Steiblytė, G. Wilms and G. Zavvos)

Defendant: Republic of Lithuania

Form of order sought

— declare that, by prohibiting the registration of passenger cars whose steering wheel is mounted on the right-hand side and/or requiring prior to registration that a steering wheel mounted on the right-hand side of a new passenger car or of a passenger car previously registered in another Member State be transferred to the left-hand side, the Republic of Lithuania has failed to fulfil its obligations under Council Directive 70/311/EEC ⁽¹⁾ of 8 June 1970 on the approximation of the laws of the Member States relating to the steering equipment for motor vehicles and their trailers, Directive 2007/46/EC ⁽²⁾ of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles, and Article 34 of the Treaty on the Functioning of the European Union;