

- 2) Dismisses the action as to the remainder.
- 3) Orders the French Republic to pay the costs.

⁽¹⁾ OJ C 217, 21. 7. 2012.

Judgment of the Court (Second Chamber) of 4 September 2014 — YKK Corp., YKK Holding Europe BV, YKK Stocko Fasteners GmbH v European Commission

(Case C-408/12 P) ⁽¹⁾

(Appeal — Agreements, decisions and concerted practices — Markets for zip fasteners and other fasteners and for attaching machines — Successive responsibilities — Legal upper limit of the fine — Article 23(2) of Regulation No 1/2003 — Concept of ‘undertaking’ — Personal responsibility — Principle of proportionality — Deterrence multiplier)

(2014/C 395/05)

Language of the case: English

Parties

Appellants: YKK Cor., YKK Holding Europe BV, YKK Stocko Fasteners GmbH (represented by: D. Arts, W. Devroe, E. Winter and F. Miotto, avocats)

Other party to the proceedings: European Commission (represented by: A. Bouquet and R. Sauer, acting as Agents)

Operative part of the judgment

The Court:

1. Sets aside the judgment of the General Court of the European Union in *YKK and Others v Commission* (EU:T:2012:322), as regards the application, for the purposes of determining the maximum amount of the fine, in the context of the cooperation in the Baseler-Wuppertaler and Amsterdamer circles on the market for metal and plastic fasteners and attaching machines, of a 10 % upper limit calculated on the basis of the YKK group turnover in the year preceding the adoption of Commission Decision C(2007) 4257 final of 19 September 2007 relating to a proceeding under Article [81 EC] (Case COMP/39.168 — PO/Hard haberdashery: fasteners), as regards the period of the infringement for which YKK Stocko Fasteners GmbH was held to be solely responsible;
2. Dismisses the appeal for the remainder;
3. Annuls Article 2(2) of Commission Decision C(2007) 4257 final in so far as it concerns the calculation of the fine for which YKK Stocko Fasteners GmbH was held to be solely liable in the framework of the cooperation in the Baseler-Wuppertaler and Amsterdamer circles;
4. Orders the fine imposed on YKK Stocko Fasteners GmbH for the infringement for which it is exclusively liable, in the framework of the cooperation in the Baseler-Wuppertaler and Amsterdamer circles, to be fixed at EUR 2 792 800;
5. Orders YKK Corporation, YKK Holding Europe BV and YKK Stocko Fasteners GmbH to bear their own costs and pay three quarters of the costs of the European Commission relating both to the proceedings at first instance and to the appeal proceedings;
6. Orders the European Commission to bear one quarter of its own costs relating both to the proceedings at first instance and to the appeal.

⁽¹⁾ OJ C 343, 10.11.2012.

Judgment of the Court (Fifth Chamber) of 4 September 2014 (request for a preliminary ruling from the Verwaltungsgerichtshof — Austria) — Schiebel Aircraft GmbH v Bundesminister für Wirtschaft, Familie und Jugend

(Case C-474/12) ⁽¹⁾

(Reference for a preliminary ruling — Freedom of establishment — Freedom of movement for workers — Non-discrimination — Article 346(1)(b) TFEU — Protection of a Member State's essential security interests — Legislation of a Member State under which the statutory representatives of a business engaged within the national territory in the trading of arms, munitions and war material must hold the nationality of that Member State)

(2014/C 395/06)

Language of the case: German

Referring court

Verwaltungsgerichtshof

Parties to the main proceedings

Applicant: Schiebel Aircraft GmbH

Defendant: Bundesminister für Wirtschaft, Familie und Jugend

Operative part of the judgment

Articles 45 TFEU and 49 TFEU must be interpreted as precluding legislation of a Member State such as that at issue in the main proceedings, under which, in the case of businesses wishing to trade in military weapons and munitions and broker the sale and purchase of such goods, members of their statutory representation bodies, or their managing partner, must hold the nationality of that Member State. It is for the national court, however, to verify whether the Member State which, in order to justify that legislation, relies on the derogation allowed under Article 346(1)(b) TFEU is able to show that such derogation is necessary in order to protect its essential security interests.

⁽¹⁾ OJ C 26, 26.1.2013.

Judgment of the Court (Fifth Chamber) of 4 September 2014 — Société nationale maritime Corse-Méditerranée (SNCM) SA v Corsica Ferries France SAS, European Commission, French Republic (C-533/12 P), French Republic v Corsica Ferries France SAS, European Commission, Société nationale maritime Corse-Méditerranée (SNCM) SA (C-536/12 P)

(Joined Cases C-533/12 P and C-536/12 P) ⁽¹⁾

(Appeals — Restructuring aid — European Commission's margin of assessment — Scope of review by the General Court of the European Union — Market economy private investor test — Requirement for a sectoral and geographical analysis — Sufficiently well-established practice — Long-term economic rationale — Making of additional redundancy payments)

(2014/C 395/07)

Language of the case: French

Parties

(Case C-533/12 P)

Appellant: Société nationale maritime Corse-Méditerranée (SNCM) SA (represented by: A. Winckler and F.-C. Laprèvote, avocats)