Court of Justice of the European Union
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Judgments in Cases C-429/11 P, C-439/11 P, C-440/11 P, C-444/11 P Gosselin Group v Commission, Ziegler v Commission, Commission v Stichting Administratiekantoor Portielje, Team Relocations and Others v Commission

Press and Information

The Court of Justice dismisses the appeals of five companies against the judgments of the General Court upholding the fines imposed for their participation in a cartel on the international removals market

In addition, the Court of Justice upholds the fine imposed on Portielje, which the General Court had annulled

By decision of 11 March 2008[1], the Commission imposed fines totalling €32.76 million on ten undertakings for having participated, in the course of various periods between October 1984 and September 2003, in a cartel on the international removal services market in Belgium. The cartel related to the direct or indirect fixing of prices, market sharing and the manipulation of the procedures for the submission of tenders, in particular by issuing false quotes to customers and through a compensation system for rejected offers.

The General Court, in its judgments of 16 June 2011[2], upheld, in essence, that decision of the Commission. However, with regard to the company Gosselin, the General Court reduced the amount of the fine imposed from €3.28 million to €2.32 million. With regard to Stichting Administratiekantoor Portielje, the parent foundation of Gosselin, the General Court held that it did not constitute an undertaking for the purposes of competition law. Consequently, the General Court annulled the fine of €270 000 to be paid jointly and severally with Gosselin.

Five companies appealed to the Court of Justice against those judgments of the General Court. At the same time, the Commission brought an appeal against the judgment of the General Court which annulled the fine imposed on Portielje[3].

In today's judgments, **the Court of Justice dismisses the companies' appeals**. As a result, the fines imposed on those companies are maintained.

However, concerning the appeal brought by the Commission, the Court of Justice sets aside the judgment of the General Court in so far as it annulled the fine imposed on Portielje. According to the Court of Justice, the General Court erred in law by holding that a sanction could be imposed on Portielje, the parent foundation of Gosselin, only if, viewed in isolation, it could be classified as an undertaking for the purposes of competition law[4]. Furthermore, in light of the fact that Portielje exercised 100% control of Gosselin, the General Court was wrong to hold that the mere fact that Portielje did not take any formal management decision during the period in respect of which it was held to be jointly and severally liable for payment of the fine was sufficient to rebut the presumption of the actual exercise of decisive influence on Gosselin.

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[1] Commission Decision C(2008) 926 final of 11 March 2008 relating to a proceeding under Article 81 [EC] and Article 53 of the EEA Agreement (Case COMP/38.543 – International Removal Services). Subsequently, in its Decision C (2009) 5810 final of 24 July 2009, the Commission reduced the original amount of the fine imposed on Gosselin Group. Thus, the total amount of the fines imposed was reduced to €31.54 million.

[2] See also Press Release No 63/11.

[3] Joined Cases T-208/08 *Gosselin Group and Stichting Administratiekantoor Portielje* v *Commission* and T-209/08 *Stichting Administratiekantoor Portielje* v *Commission*.

[4] Paragraph 45 of Case C-440/11 P.

For those reasons, **the Court of Justice sets aside the judgment of the General Court** (in Case C-440/11 P) in so far as it annulled the fine imposed on Portielje.

CARTEL ON THE INTERNATIONAL REMOVAL SERVICES MARKET

Case Number	**Case name**	**Country of origin**	**Fine imposed by the Commission**	**General Court judgment**	**Judgment of Court of Justice**
C-429/11 P	Gosselin Group NV v Commission	BE	€3.28 million	Joined Cases T-208/08 T-209/08 Gosselin : Reduction of the fine €2.32 million Portielje : Annulment of the fine	Appeal dismissed
C-439/11 P	Ziegler SA v Commission	BE	€9.2 million	T-199/08 Action dismissed	Appeal dismissed
C-444/11 P	Team Relocations N.V. and Others v Commission	BE, UK	Team Relocations: €3.49 million *Jointly and severally:* Trans Euro, Team Relocations Ltd: €3 million Amertranseuro, Trans Euro, Team Relocations Ltd: €1.3 million	Joined Cases T-204/08 T-212/08 Action dismissed	Appeal dismissed
C-440/11 P	Commission v Stichting Administratiekan-toor Portielje	BE	Gosselin: €3.28 million *Jointly and severally*: Portielje: €270 000	*Joined Cases* T-208/08 T-209/08 Annulment of the fine imposed on Portielje	Judgment of the General Court set aside in so far as it annuls the fine imposed on Portielje

NOTE: An appeal, on a point or points of law only, may be brought before the Court of Justice against a judgment or order of the General Court. In principle, the appeal does not have suspensive effect. If the appeal is admissible and well founded, the Court of Justice sets aside the judgment of the General Court. Where the state of the proceedings so permits, the Court of Justice may itself give final judgment in the case.

Otherwise, it refers the case back to the General Court, which is bound by the decision given by the Court of Justice on the appeal.

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The full text of the judgment is published on the CURIA website on the day of delivery.

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