
Cartel on the truck market: The Court dismisses Scania's appeal

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In its judgment of 2 February 2022 **(1)**, the General Court dismissed the action brought by Scania for annulment of a decision **(2)** of the European Commission. In that decision, the Commission found that the companies Scania AB, Scania CV AB and Scania Deutschland GmbH, three entities of the Scania group, which produce and sell heavy trucks used for long-haulage transport, had infringed the rules of EU law prohibiting cartels **(3)**.

Those infringements consisted in their participation, from January 1997 to January 2011, with their competitors, in collusive arrangements aimed at restricting competition on the market for medium and heavy trucks in the European Economic Area (EEA).

The Commission **imposed a fine of €880,523,000 on Scania.**

Scania appealed against the judgment of the General Court to the Court of Justice, which today dismisses it in its entirety, thereby upholding the judgment of the General Court.

The Court of Justice finds that Scania has not succeeded in demonstrating that the General Court failed to assess whether the administrative procedure, resumed against Scania after its withdrawal from the settlement procedure allowing the parties in the cartel cases to acknowledge their liability and to receive, in exchange, a reduction in the amount of the fine imposed, complied with the principle of impartiality. In confirming, in essence, the assessment made by the General Court, the Court of Justice finds that the mere fact that the same Commission team was responsible for adopting both the settlement decision and the final decision concerning Scania does not, by itself, call into question the impartiality of that institution in the absence of any other objective evidence. Scania has not shown that it put forward any such objective evidence before the General Court.

The Court of Justice also dismisses Scania's arguments to the effect that the General Court wrongly characterised the geographic scope of its conduct at German level meetings as extending to the entire territory of the EEA.

Similarly, the Court of Justice refutes the premiss that, in order to establish the existence of a single and continuous infringement, the General Court should have required the Commission also to establish that each of the acts concerned, taken in isolation, constituted in itself an infringement.

Finally, the Court of Justice observes that, in the light of its analysis of the grounds put forward by Scania, it must take as read the conclusion of the Commission, and subsequently that of the General Court, that the infringement at issue ended on 18 January 2011, so that the five-year limitation period only began to run from that date and that the Commission's power to impose a fine was therefore not time-barred.

1. Judgment of the General Court of 2 February 2022, *Scania and Others v Commission*, T-799/17 (see also Press Release No 20/22).
2. Commission Decision C(2017) 6467 final of 27 September 2017 relating to a proceeding under Article 101 TFEU and Article 53 of the Agreement on the European Economic Area (EEA) (Case AT.39824 – Trucks).
3. Article 101 TFEU and Article 53 of the EEA Agreement.