

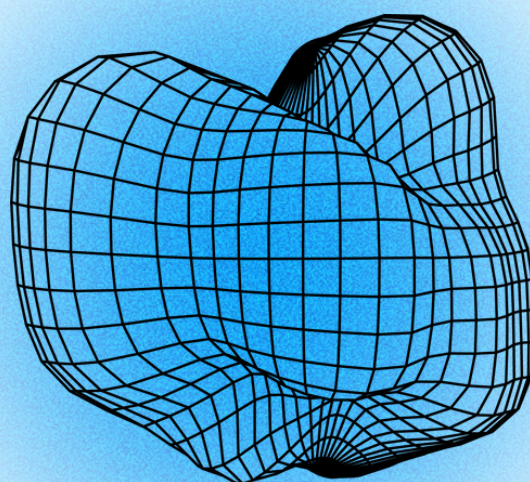
Mapping Reversals:

An Empirical Account of Margrethe Vestager's Track Record Before the Court of Justice of the European Union

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Publication Date:
February 2025

Amsterdam Law &
Technology Institute
Working Paper



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Version: February 2025 (v. 1.1)

Abstract

Margrethe Vestager concluded her second mandate as European Commissioner for Competition in November 2024. During her tenure, the decisions of the Directorate-General for Competition (“DG Comp”) appeared before the Court of Justice of the European Union (“CJEU”) in 241 cases. This study is the first to offer an empirical analysis of Vestager’s track record before the CJEU. We provide a comprehensive account of her successes and setbacks, and identify key patterns in CJEU rulings. At a macro level, our findings indicate that 27.47% of the decisions first issued under Margrethe Vestager’s leadership have been at least partially overruled by the CJEU upon reaching the Court, with more cases likely to follow. When antitrust cases reach a judgment, the legal service representing the European Commission loses 24.6% of DG Comp’s antitrust decisions over the period. Our findings also reveal surprising results at a micro level. The CJEU overturned only one DG Comp’s decision on Article 102 over the period. None of the decisions initiated by Margrethe Vestager under Article 102 has been overruled by the CJEU to date. In merger control, only seven cases reached the CJEU during her two mandates, with just two overturned—representing 0.05% of the merger decisions she issued. Regarding state aid, the Commission lost most cases on substantive grounds rather than procedural ones. Our analysis uncovers the underlying patterns behind these cases and thus offers new insights into the judicial dynamics of EU competition law during Vestager’s tenure.

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1. Introduction

Margrethe Vestager assumed office as European Commissioner for Competition on November 1, 2014. She led the Directorate-General for Competition (“DG Comp”) during two mandates and ended her leadership on November 31, 2024. A flurry of academic articles has been published during that period to assess the merits of individual decisions issued by the European Commission (“EC”) under her leadership. Empirical work has been logically more scarce, with studies primarily focusing on trends and patterns in DG Comp’s decisions.¹ This study is the first to provide an empirical account of Margrethe Vestager’s DG Comp record before the Court of Justice of the European Union (“CJEU”).

Our objective is twofold. *First*, we aim to provide a comprehensive overview of all cases brought before the CJEU in the areas of antitrust (competition law), mergers, and state aid during her two mandates. We make the dataset we have compiled publicly available for use by researchers, regulatory agencies, and practitioners. *Second*, we seek to identify patterns in the successes and failures of DG Comp before the CJEU under her leadership. Although our sample is too small to assign statistical significance to specific figures, clear lessons can be drawn from the 241 CJEU cases we have identified. Our goal is to provide a neutral account of her two mandates before the CJEU rather than to offer a subjective analysis of what could—or should—have been done differently.

¹ For example, Levy, Nicholas, Aleksandra Katolik, and Matthew Day. “Commissioner Vestager’s legacy in merger control.” *Journal of European Competition Law & Practice* 15, no. 6 (2024): 444-454; Veljanovski, Cento. “An Empirical Assessment of the European Commission’s Cartel Prosecutions, 2010-2019.” *The Antitrust Bulletin* 68, no. 3 (2023): 411-439; Van Rompuy, Ben. “The European Commission’s Handling of Non-priority Antitrust Complaints: An Empirical Assessment.” *World Competition* 45, no. 2 (2022); Van den Bosch, Bruno, and Friso Bostoën. “Opening the Black Box: Uncovering the European Commission’s Cartel Fining Formula Through Computational Analysis.” *Stanford Computational Antitrust* 3 (2023): 158.

To achieve this, we first present our methodology for data collection and processing (**Section 2**). We then introduce our findings and highlight key patterns that emerge from the dataset (**Section 3**). Finally, we discuss the limitations of our study and areas where further empirical research is needed (**Section 4**).

2. Methods and processing

2.1. Case selection

Case selection is a critical step in empirical legal research, requiring objectivity, grounded justification, and replicability.²

Our selection of cases is based on the database provided by the EU courts, Curia.³ We aimed to identify all cases before the CJEU in which (1) the European Commission’s legal service initiated or continued legal proceedings concerning DG Comp during Margrethe Vestager’s two mandates, and (2) the CJEU issued a judgment. As a result, we included cases that had been initiated before Vestager took office, provided that the European Commission’s legal service, under her leadership, made a decision to pursue DG Comp-related legal action before the CJEU. In practical terms, we applied the following search criteria:⁴

- Subject-matter = “Competition”
- Documents = Judgments published in the European Court Reports (ECR)
- Documents not published in the ECR = Judgments

We then reviewed all cases up to December 1, 2024. Our final sample consists of 241 cases, which are reproduced below.

2.2. Coding book

The coding book serves to systematically define and document the information and variables included in our dataset. Like case selection, the coding book must be replicable.

The choice of variables was guided by our objective to create a database that can be used by others for various purposes. With this in mind, we first documented the following elements for each of the 241 cases we identified (*Table 1*):

² For more on the methodology underlying systematic content analysis, see Schrepel, Thibault. “A systematic content analysis of innovation in European competition law.” *European Journal of Law and Economics* 58, no. 2 (2024): 355-395.

³ InfoCuria jurisprudence. (2025). <https://curia.europa.eu/juris/recherche.jsf>.

⁴ CURIA - List of results. ‘Subject-matter = "Competition"; Documents = Documents published in the ECR : Judgments; Documents not published in the ECR : Judgments.’ (2025). <https://perma.cc/JJ3M-PK9R>.

- Reference to the CJEU judgment
- URL to the CJEU judgment
- Reference to the EC decision at stake
- Date the EC decision was published, with a blue mark indicating decisions issued before Margrethe Vestager took office
- Legal basis for the EC decision
- Final outcome of the CJEU judgment

We then proceeded to code and document additional details for cases in which the CJEU fully or partially overruled the EC. For these cases, we included (*Table 2*):

- Reference to the CJEU judgment (reproduced from *Table 1*)
- URL to the CJEU judgment (reproduced from *Table 1*)
- Legal basis for the EC decision (reproduced from *Table 1*)
- Final outcome of the CJEU judgment (reproduced from *Table 1*)
- Type of judgment rendered by the CJEU: we categorized cases as “substantial” when they dealt with the legal analysis of a practice, and “procedural” when they centered on the procedural aspects of a case.
- Comments: we included key paragraphs from the CJEU’s reasoning, along with a summary of these paragraphs in bold.

3. Descriptive analysis

3.1. Overview (table)

Table 1 lists all DG Comp decisions reviewed by the CJEU during Margrethe Vestager’s two mandates. It includes decisions published before she took office, provided that the European Commission’s legal service chose to pursue DG Comp-related legal action in these cases during her leadership.

Table 2 documents all cases in which the CJEU at least partially overruled DG Comp’s decisions, regardless of the General Court’s judgment.

CJEU Reference	URL to the CJEU judgment	EC decision number	EC decision date	EC decision legal basis	Outcome of CJEU judgment
C-127/23 P Judgment ECLI:EU:C:2024:861 Falke v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62023CJ0127	SA.61744	20 Nov 2020	Article 107 TFEU	Confirms the EC
C-124/23 P Judgment ECLI:EU:C:2024:860 E. Breuninger v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62023CJ0124	SA.59289	20 Nov 2020	Article 107 TFEU	Confirms the EC
C-31/23 P Judgment ECLI:EU:C:2024:851 Ferriere Nord v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62023CJ0031	AT.37956	4 Jul 2019	Article 65 of the ECSC Treaty	Other (Annuls article 2 paragraph 3 of the EC decision; otherwise confirms)
C-29/23 P Judgment ECLI:EU:C:2024:844 Ferriera Valsabbia and Valsabbia Investimenti v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62023CJ0029	AT.37956	4 Jul 2019	Article 65 of the ECSC Treaty	Confirms the EC
C-255/22 P Judgment ECLI:EU:C:2024:790 26/09/2024 Orlen v Commission	https://curia.europa.eu/juris/document/document.jsf?text=&docid=290407&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=1517196	AT.39816	24 May 2018	Article 102 TFEU	Confirms the EC
C-710/22 P Judgment ECLI:EU:C:2024:787 JCDecaux Street Furniture Belgium v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62022CJ0710	SA.33078	24 Jun 2019	Article 107 TFEU	Confirms the EC
C-224/23 P Judgment ECLI:EU:C:2024:682 PBL and Abdelmouine v Commission	https://curia.europa.eu/juris/document/document.jsf?jsessionid=7E111D95CB025A61199ACA23C94E2688?text=&docid=289801&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=1521600	COMP/C.4/AH/mdr 2021(092342)	1 Sep 2021	Article 108 TFEU	Confirms the EC
C-447/22 P Judgment ECLI:EU:C:2024:678 Slovenia v Flašker and Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62022CJ0447	SA.43546	24 Mar 2020	Article 107 and 108 TFEU	Confirms the EC
C-611/22 P Judgment ECLI:EU:C:2024:677 Illumina v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62022CJ0611	COMP/M.10188	19 Apr 2021	Regulation (EC) No 139/2004 (Article 22)	Annuls the EC
C-697/22 P Judgment ECLI:EU:C:2024:641 Koiviston Auto Helsinki v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62022CJ0697	SA.33846	28 Jun 2019	Article 108 TFEU	Annuls the EC
C-70/23 P Judgment ECLI:EU:C:2024:580 Westfälische Drahtindustrie and Others v Commission	https://curia.europa.eu/juris/document/document.jsf?jsessionid=7E111D95CB025A61199ACA23C94E2688?text=&docid=287889&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=1521600	COMP/38.344	30 Jun 2010	Article 101 TFEU and Article 53 EEA	Confirms the EC
C-736/22 P Judgment ECLI:EU:C:2024:579 Portugal v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62022CJ0736	SA.21259	4 Dec 2020	Article 108 TFEU	Confirms the EC
C-40/23 P Judgment ECLI:EU:C:2024:492 Commission v Netherlands	https://curia.europa.eu/juris/document/document.jsf?jsessionid=7E111D95CB025A61199ACA23C94E2688?text=&docid=287069&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=1521600	SA.54537	12 May 2020	Article 107 TFEU	Annuls the EC
C-110/23 P Judgment ECLI:EU:C:2024:441 Autoridad Portuaria de Bilbao v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62023CJ0110	SA.38397	8 Jan 2019	Article 107 and 108 TFEU	Confirms the EC
C-440/22 P Judgment ECLI:EU:C:2024:26 Wizz Air Hungary v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62022CJ0440	SA.56244	24 Feb 2020	Article 107 TFEU	Confirms the EC
C-297/22 P Judgment ECLI:EU:C:2023:1027 United Parcel Service v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62022CJ0297	COMP/M.6570	30 Jan 2013	Regulation (EC) No 139/2004	Confirms the EC
C-255/22 P Judgment ECLI:EU:C:2024:790 Orlen v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62022CJ0255	AT.39816	24 May 2018	Article 102 TFEU and Article 54 EEA	Confirms the EC
C-251/22 P Judgment ECLI:EU:C:2024:103 Scania and Others v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62022CJ0251	AT.39824	27 Sep 2017	Article 101 TFEU and Article 53 EEA	Confirms the EC
C-240/22 P Judgment ECLI:EU:C:2024:915 Commission v Intel Corporation	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62022CJ0240	COMP/C-3/37.990	13 May 2009	Article 102 TFEU and Article 54 EEA	Annuls the EC
C-163/22 P Judgment ECLI:EU:C:2023:515 Gmina Miasto Gdynia and Port Lotniczy Gdynia-Kosakowo v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62022CJ0163	SA.35388	26 Feb 2015	Article 107 TFEU	Confirms the EC
C-73/22 P Judgment ECLI:EU:C:2023:570 Grupa Azoty and Others v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62022CJ0073	Directive 2003/87	25 Sep 2020	Article 107 TFEU	Confirms the EC
C-588/22 P Judgment ECLI:EU:C:2024:935 Ryanair v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62022CJ0588	SA.57410	9 Jun 2020	Article 107 TFEU	Confirms the EC
C-581/22 P Judgment ECLI:EU:C:2024:821 thyssenkrupp v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62022CJ0581	M.8713	11 Jun 2019	Regulation (EC) No 139/2004	Confirms the EC

Table 1: DG Comp decisions before the CJEU (1 Nov. 2014 to 30 Nov. 2024)

CJEU Reference	URL to the CJEU judgment	EC decision number	EC decision date	EC decision legal basis	Outcome of CJEU judgment
C-48/22 P Judgment ECLI:EU:C:2024:726 Google and Alphabet v Commission (Google Shopping)	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62022CJ0048	AT.39740	10 Nov 2020	Article 102 TFEU and Article 54 EEA	Confirms the EC
C-815/21 P Judgment ECLI:EU:C:2023:308 Amazon.com and Others v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62021CJ0815	AT.40703	10 Nov 2020	Article 102 TFEU	Confirms the EC
C-795/21 P Judgment ECLI:EU:C:2024:807 WEPA Hygieneprodukte and WEPA Deutschland v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62021CJ0795	SA.34045	28 May 2018	Article 107 TFEU	Confirms the EC
C-792/21 P Judgment ECLI:EU:C:2024:793 AZ v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62021CJ0792	SA.34045	28 May 2018	Article 107 TFEU	Confirms the EC
C-790/21 P Judgment ECLI:EU:C:2024:792 Covestro Deutschland v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62021CJ0790	SA.34045	28 May 2018	Article 107 TFEU	Confirms the EC
C-763/21 P Judgment ECLI:EU:C:2023:528 Tullify v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62021CJ0763	SA.24221	11 Nov 2016	Article 107 TFEU	Confirms the EC
C-759/21 P Judgment ECLI:EU:C:2023:577 Nippon Chemi-Con Corporation v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62021CJ0759	AT.40136	21 Mar 2018	Article 101 TFEU	Confirms the EC
C-757/21 P Judgment ECLI:EU:C:2023:575 Nichicon Corporation v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62021CJ0757	AT.40136	21 Mar 2018	Article 101 TFEU	Confirms the EC
C-746/21 P Judgment ECLI:EU:C:2023:836 Altice Group Lux v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62021CJ0746	M.7993	24 Apr 2018	Regulation (EC) No 139/2004	Other (Annuls Article 4, confirms otherwise)
C-719/21 P Judgment ECLI:EU:C:2023:15 Jouvin v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62021CJ0719	C(2020) 3503	28 May 2020	Article 101 TFEU	Confirms the EC
C-591/21 P Judgment ECLI:EU:C:2024:635 Ryanair and Laudamotion v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62021CJ0591	SA.57539	6 Jul 2020	Article 107 TFEU	Confirms the EC
C-578/21 P Judgment ECLI:EU:C:2022:898 Irish Wind Farmers' Association and Others v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62021CJ0578	SA.44671	9 Jul 2019	Article 107 TFEU	Confirms the EC
C-508/21 P Judgment ECLI:EU:C:2023:669 Commission v Dansk Erhverv	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62021CJ0508	SA.44865	4 Oct 2018	Article 107 TFEU	Confirms the EC
C-457/21 P Judgment ECLI:EU:C:2023:985 Commission v Amazon.com and Others	https://curia.europa.eu/juris/document/document.jsf?text=&docid=280624&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=1562965	SA.38944	4 Oct 2017	Article 107 TFEU	Confirms the EC
C-451/21 P Judgment ECLI:EU:C:2023:948 Luxembourg v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62021CJ0451	SA.44888	20 Jun 2018	Article 107 TFEU	Annuls the EC
C-442/21 P Judgment ECLI:EU:C:2022:872 ITD and Danske Fragtmænd v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62021CJ0442	SA.47707	28 May 2018	Article 108 TFEU	Confirms the EC
C-441/21 P Judgment ECLI:EU:C:2024:477 Ryanair v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62021CJ0441	SA.57659	31 Jul 2020	Article 107 TFEU	Confirms the EC
C-353/21 P Judgment ECLI:EU:C:2024:437 Ryanair v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62021CJ0353	SA.56809	18 May 2020	Article 107 TFEU	Confirms the EC
C-321/21 P Judgment ECLI:EU:C:2023:713 Ryanair v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62021CJ0321	SA.56795	15 Apr 2020	Article 107 TFEU	Confirms the EC
C-320/21 P Judgment ECLI:EU:C:2023:712 Ryanair v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62021CJ0320	SA.57061	24 May 2020	Article 107 TFEU	Confirms the EC
C-284/21 P Judgment ECLI:EU:C:2023:58 Commission v Braesch and Others	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62021CJ0284	SA.47677	4 Jul 2017	Article 107 and 108 TFEU	Confirms the EC
C-210/21 P Judgment ECLI:EU:C:2023:908 Ryanair v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62021CJ0210	SA.56765	31 Mar 2020	Article 107 TFEU	Confirms the EC
C-209/21 P Judgment ECLI:EU:C:2023:905 Ryanair v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62021CJ0209	SA.56812	11 Apr 2020	Article 107 TFEU	Confirms the EC
C-149/21 P Judgment ECLI:EU:C:2022:517 Fakro v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62021CJ0149	AT.40026	14 Jun 2018	Article 101 TFEU	Confirms the EC
C-127/21 P Judgment ECLI:EU:C:2023:209 American Airlines v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62021CJ0127	M.6607	30 Apr 2018	Regulation (EC) No 139/2004 & Article 10 of Council Regulation (EEC) No 95/93	Confirms the EC

Table 1: DG CoTable 1: DG Comp decisions before the CJEU (1 Nov. 2014 to 30 Nov. 2024)

CJEU Reference	URL to the CJEU judgment	EC decision number	EC decision date	EC decision legal basis	Outcome of CJEU judgment
C-124/21 P Judgment ECLI:EU:C:2023:1012 International Skating Union v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62021CJ0124	AT.40208	8 Dec 2017	Article 101 TFEU and Article 53 EEA	Confirms the EC
C-42/21 P Judgment ECLI:EU:C:2023:12 Lietuvos geležinkeliai v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62021CJ0042	AT.39813	2 Oct 2017	Article 102 TFEU	Confirms the EC
C-693/20 P Judgment ECLI:EU:C:2023:172 Intermarché Casino Achats v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62020CJ0693	AT.40466	9 Feb 2017	Article 101 TFEU	Annuls the EC
C-690/20 P Judgment ECLI:EU:C:2023:171 Casino, Guichard-Perrachon and Achats Marchandises Casino v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62020CJ0690	AT.40466	9 Feb 2017	Article 101 TFEU	Annuls the EC
C-682/20 P Judgment ECLI:EU:C:2023:170 Les Mousquetaires and ITM Entreprises v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62020CJ0682	AT.40466	9 Feb 2017	Article 101 TFEU	Annuls the EC
C-666/20 P Judgment ECLI:EU:C:2022:225 GVN v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62020CJ0666	SA.46538	12 Jul 2018	Article 107 TFEU	Confirms the EC
C-656/20 P Judgment ECLI:EU:C:2022:222 Hermann Albers v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62020CJ0656	SA.46697	12 Jul 2018	Article 107 TFEU	Confirms the EC
C-465/20 P Judgment ECLI:EU:C:2024:724 Commission v Ireland and Others	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62020CJ0465	SA.38373	30 Aug 2016	Article 107 TFEU	Confirms the EC
C-429/20 P Judgment ECLI:EU:C:2022:282 Solar Ileias Bompaina v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62020CJ0429	SA.38967	10 Oct 2018	Article 108 TFEU	Confirms the EC
C-331/20 P Judgment ECLI:EU:C:2022:886 Volotea v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62020CJ0331	SA33983	29 Jul 2016	Article 107 TFEU	Annuls the EC
C-211/20 P Judgment ECLI:EU:C:2022:862 Commission v Valencia Club de Fútbol	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62020CJ0211	SA.36387	4 Jul 2016	Article 87 EC Treaty	Annuls the EC
C-51/20 P Judgment ECLI:EU:C:2022:36 Commission v Greece (Recovery of State aid - Ferronickel)	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62020CJ0051	SA.34572	6 Mar 2013	Article 108 TFEU	Confirms the EC
C-11/20 P Judgment ECLI:EU:C:2021:380 Commission v Greece (Aid to agricultural producers)	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62020CJ0011	2012/157/UE	7/12/11	Article 108 TFEU	Confirms the EC
C-933/19 P Judgment ECLI:EU:C:2021:905 Autostrada Wielkopolska v Commission and Poland	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0933	SA.35356	25 Aug 2017	Article 108 TFEU	Confirms the EC
C-890/19 P Judgment ECLI:EU:C:2021:345 Fortischem v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0890	SA.33797	15 Oct 2014	Article 108 TFEU	Confirms the EC
C-883/19 P Judgment ECLI:EU:C:2023:11 HSBC Holdings and Others v Commission	https://curia.europa.eu/juris/document/document.jsf?text=&docid=269141&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=1760754	AT.39914	7 Dec 2016	Article 101 TFEU and Article 53 EEA	Confirms the EC
C-850/19 P Judgment ECLI:EU:C:2021:740 FVE Holyšov I and Others v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0850	SA.40171	28 Nov 2016	Article 107 TFEU	Confirms the EC
C-847/19 P Judgment ECLI:EU:C:2021:343 Achemos Grupė and Achema v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0847	SA.36740	20 Nov 2013	Article 108 TFEU	Confirms the EC
C-704/19 P Judgment ECLI:EU:C:2021:342 Commission v Spain (TNT en Castille-La Manche)	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0704	SA.27408	1 Oct 2014	Article 108 TFEU	Confirms the EC
C-702/19 P Judgment ECLI:EU:C:2020:857 Silver Plastics and Johannes Reifenhäuser v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0702	AT.39563	24 Jun 2015	Article 101 TFEU and Article 53 EEA	Confirms the EC
C-700/19 P Judgment ECLI:EU:C:2022:484 Toshiba Samsung Storage Technology and Toshiba Samsung Storage Technology Korea v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0700	AT.39639	21 Oct 2015	Article 101 TFEU and Article 53 EEA	Other (Annuls article 1 of the decision, confirms otherwise)
C-699/19 P Judgment ECLI:EU:C:2022:483 Quanta Storage v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0699	AT.39639	21 Oct 2015	Article 101 TFEU and Article 53 EEA	Other (Annuls article 1 of the decision, confirms otherwise)
C-698/19 P Judgment ECLI:EU:C:2022:480 Sony Optiarc and Sony Optiarc America v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0698	AT.39639	21 Oct 2015	Article 101 TFEU and Article 53 EEA	Other (Annuls article 1 of the decision, confirms otherwise)

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CJEU Reference	URL to the CJEU judgment	EC decision number	EC decision date	EC decision legal basis	Outcome of CJEU judgment
C-697/19 P Judgment ECLI:EU:C:2022:478 Sony Corporation and Sony Electronics v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0697	AT.39639	21 Oct 2015	Article 101 TFEU and Article 53 EEA	Other (Annuls article 1 of the decision, confirms otherwise)
C-694/19 P Judgment ECLI:EU:C:2021:286 Italmobiliare and Others v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0694	AT.39563	24 Jun 2015	Article 101 TFEU and Article 53 EEA	Confirms the EC
C-689/19 P Judgment ECLI:EU:C:2021:142 VodafoneZiggo Group v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0689	C(2018) 5848	30 Aug 2018	Directive 2002/21/EC	Confirms the EC
C-665/19 P Judgment ECLI:EU:C:2021:667 NeXovation v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0665	SA.31550	1 Oct 2014	Article 108 TFEU	Confirms the EC
C-647/19 P Judgment ECLI:EU:C:2021:666 Ja zum Nürburgring v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0647	SA.31550	1 Oct 2014	Article 108 TFEU	Confirms the EC
C-596/19 P Judgment ECLI:EU:C:2021:202 Commission v Hungary	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0596	SA.39235	4 Nov 2016	Article 107 TFEU	Annuls the EC
C-594/19 P Judgment ECLI:EU:C:2022:40 Deutsche Lufthansa v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0594	SA.32833	1 Oct 2014	Article 107 TFEU	Confirms the EC
C-563/19 P Judgment ECLI:EU:C:2021:428 Recylex and Others v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0563	AT.40018	8 Feb 2017	Article 101 TFEU	Confirms the EC
C-562/19 P Judgment ECLI:EU:C:2021:201 Commission v Poland	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0562	SA.44351	19 Sep 2016	Article 108 TFEU	Annuls the EC
C-466/19 P Judgment ECLI:EU:C:2021:76 Qualcomm and Qualcomm Europe v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0466	AT.39711	31 Mar 2017	Article 102 TFEU and Article 54 EEA	Confirms the EC
C-453/19 P Judgment ECLI:EU:C:2021:608 Deutsche Lufthansa v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0453	SA.21121	1 Oct 2014	Article 108 TFEU	Confirms the EC
C-440/19 P Judgment ECLI:EU:C:2021:214 Pometon v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0440	AT.39792	25 May 2016	Article 101 TFEU	Other (Sets aside paragraphs 2 and 4 of T-433/16, otherwise confirms)
C-431/19 P Judgment ECLI:EU:C:2020:1051 Inpost Paczkomaty v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0431	C(2015) 8236	26 Nov 2015	Article 106 TFEU	Confirms the EC
C-425/19 P Judgment ECLI:EU:C:2021:154 Commission v Italy and Others	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0425	SA.39451	23 Dec 2015	Article 108 TFEU	Annuls the EC
C-362/19 P Judgment ECLI:EU:C:2021:169 Commission v Fútbol Club Barcelona	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0362	SA.29769	4 Jul 2016	Article 107 and 108 TFEU	Confirms the EC
C-301/19 P Judgment ECLI:EU:C:2021:39 Commission v Printeos	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0301	AT.39780	10 Dec 2014	Article 101 TFEU and Article 53 EEA	Annuls the EC
C-207/19 P Judgment ECLI:EU:C:2024:553 Biogaran v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0207	AT.39612	9 Jul 2014	Article 101 TFEU	Confirms the EC
C-201/19 P Judgment ECLI:EU:C:2024:552 Servier and Others v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0201	AT.39612	9 Jul 2014	Article 101 and 102 TFEU	Other (Annuls the fine amount and end date of infringement, otherwise confirms)
C-198/19 P Judgment ECLI:EU:C:2024:551 Teva UK and Others v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0198	AT.39612	9 Jul 2014	Article 101 and 102 TFEU	Confirms the EC
C-197/19 P Judgment ECLI:EU:C:2024:550 Mylan Laboratories and Mylan v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0197	AT.39612	9 Jul 2014	Article 101 and 102 TFEU	Confirms the EC
C-174/19 P Judgment ECLI:EU:C:2021:801 Scandlines Danmark and Scandlines Deutschland v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0174	SA.39078	23 Jul 2015	Article 108 TFEU	Confirms the EC
C-167/19 P Judgment ECLI:EU:C:2022:176 Commission v Freistaat Bayern	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0167	SA.35484	18 Sep 2015	Article 93 EC Treaty	Annuls the EC
C-166/19 P Judgment ECLI:EU:C:2024:548 Unichem Laboratories v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0166	AT.39612	9 Jul 2014	Article 101 and 102 TFEU	Confirms the EC
C-165/19 P Judgment ECLI:EU:C:2021:239 Slovak Telekom v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0165	C(2015) 2484	17 Apr 2015	Article 102 TFEU	Confirms the EC
C-164/19 P Judgment ECLI:EU:C:2024:547 Niche Generics v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0164	AT.39612	9 Jul 2014	Article 101 and 102 TFEU	Confirms the EC
C-160/19 P Judgment ECLI:EU:C:2020:1012 Comune di Milano v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0160	SA.21420	19 Dec 2012	Article 107 TFEU	Confirms the EC

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CJEU Reference	URL to the CJEU judgment	EC decision number	EC decision date	EC decision legal basis	Outcome of CJEU judgment
C-152/19 P Judgment ECLI:EU:C:2021:238 Deutsche Telekom v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0152	C(2015) 2484	15 Oct 2014	Article 102 TFEU	Confirms the EC
C-148/19 P Judgment ECLI:EU:C:2020:354 BTB Holding Investments and Duferco Participations Holding v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0148	SA.33926	20 Jan 2016	Article 108 TFEU	Confirms the EC
C-144/19 P Judgment ECLI:EU:C:2024:545 Lupin v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0144	AT.39612	9 Jul 2014	Article 101 and 102 TFEU	Confirms the EC
C-132/19 P Judgment ECLI:EU:C:2020:1007 Groupe Canal + v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0132	AT.40023	26 Jul 2016	Article 101 TFEU and Article 53 EEA	Annuls the EC
C-57/19 P Judgment ECLI:EU:C:2021:663 Commission v Tempus energy and Tempus Energy Technology	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0057	C(2014) 5083	23 Jul 2014	Article 108 TFEU	Confirms the EC
C-55/19 P Judgment ECLI:EU:C:2021:797 Prosegur Compañía de Seguridad v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0055	2011/282/EU	12 Jan 2011	Article 107 TFEU	Confirms the EC
C-54/19 P Judgment ECLI:EU:C:2021:796 Axa Mediterranean v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0054	2011/282/EU	12 Jan 2011	Article 107 TFEU	Confirms the EC
C-53/19 P Judgment ECLI:EU:C:2021:795 Banco Santander and Santusa v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0053	2011/282/EU	12 Jan 2011	Article 107 TFEU	Confirms the EC
C-52/19 P Judgment ECLI:EU:C:2021:794 Banco Santander v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0052	2011/282/EU	28 Oct 2009	Article 107 TFEU	Confirms the EC
C-51/19 P Judgment ECLI:EU:C:2021:793 World Duty Free Group v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0051	2011/282/EU	28 Oct 2009	Article 107 TFEU	Confirms the EC
C-50/19 P Judgment ECLI:EU:C:2021:792 Sigma Alimentos Exterior v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0050	2011/282/EU	12 Jan 2011	Article 107 TFEU	Confirms the EC
C-611/18 P Judgment ECLI:EU:C:2020:868 Pirelli & C. v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62018CJ0611	AT.39610	2 Apr 2014	Article 101 TFEU and Article 53 EEA	Confirms the EC
C-607/18 P Judgment ECLI:EU:C:2020:385 NKT Verwaltung and NKT v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62018CJ0607	C(2014) 2139	2 Apr 2014	Article 101 TFEU and Article 53 EEA	Other (Sets aside point 1 of the original judgement, annuls the EC decision in part, but otherwise confirms)
C-606/18 P Judgment ECLI:EU:C:2020:571 Nexans France and Nexans v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62018CJ0606	AT.39610	2 Apr 2014	Article 101 TFEU and Article 53 EEA	Confirms the EC
C-601/18 P Judgment ECLI:EU:C:2020:751 Prysmian and Prysmian Cavi e Sistemi v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62018CJ0601	AT.39610	2 Apr 2014	Article 101 TFEU and Article 53 EEA	Confirms the EC
C-599/18 P Judgment ECLI:EU:C:2019:966 Silec Cable and General Cable v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62018CJ0599	AT.39610	2 Apr 2014	Article 101 TFEU and Article 53 EEA	Confirms the EC
C-596/18 P Judgment ECLI:EU:C:2019:1025 LS Cable & System v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62018CJ0596	AT.39610	2 Apr 2014	Article 101 TFEU and Article 53 EEA	Confirms the EC
C-595/18 P Judgment ECLI:EU:C:2021:73 The Goldman Sachs Group v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62018CJ0595	AT.39610	2 Apr 2014	Article 101 TFEU and Article 53 EEA	Confirms the EC
C-594/18 P Judgment ECLI:EU:C:2020:742 Austria v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62018CJ0594	SA.34947	8 Oct 2014	Article 107 TFEU	Confirms the EC
C-593/18 P Judgment ECLI:EU:C:2019:1027 ABB v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62018CJ0593	C(2014) 2139	2 Apr 2014	Article 101 TFEU and Article 53 EEA	Other (Sets aside liability for infringement, otherwise confirms)
C-591/18 P Judgment ECLI:EU:C:2019:1026 Brugg Kabel and Kabelwerke Brugg v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62018CJ0591	AT.39610	2 Apr 2014	Article 101 TFEU and Article 53 EEA	Confirms the EC
C-590/18 P Judgment ECLI:EU:C:2019:1135 Fujikura v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62018CJ0590	AT.39610	2 Apr 2014	Article 101 TFEU and Article 53 EEA	Confirms the EC
C-589/18 P Judgment ECLI:EU:C:2019:1134 Furukawa Electric v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62018CJ0589	AT.39610	2 Apr 2014	Article 101 TFEU and Article 53 EEA	Confirms the EC
C-587/18 P Judgment ECLI:EU:C:2020:150 CSTP Azienda della Mobilità v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62018CJ0587	SA.35842	19 Jan 2015	Article 108 TFEU	Confirms the EC
C-586/18 P Judgment ECLI:EU:C:2020:152 Buonotourist v Commission	https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62018CJ0586	SA.35842	19 Jan 2015	Article 108 TFEU	Confirms the EC

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CJEU Reference	URL to the CJEU judgment	EC decision number	EC decision date	EC decision legal basis	Outcome of CJEU judgment
C-582/18 P Judgment ECLI:EU:C:2019:1133 Viscas v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62018CJ0582	AT.39610	2 Apr 2014	Article 101 TFEU and Article 53 EEA	Confirms the EC
C-576/18 P Judgment ECLI:EU:C:2020:202 Commission v Italy (Unlawful aid granted to the hotel sector in Sardinia)	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62018CJ0576	2008/854	2 Jul 2008	Article 88 EC Treaty	Confirms the EC
C-538/18 P Judgment ECLI:EU:C:2020:53 České dráhy v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62018CJ0538	AT.40401	18 Apr 2016	Article 101 and 102 TFEU	Confirms the EC
C-456/18 P Judgment ECLI:EU:C:2020:421 Hungary v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62018CJ0456	SA. 41187	15 Jul 2015	Article 108 TFEU	Annuls the EC
C-403/18 P Judgment ECLI:EU:C:2019:870 Alcogroup and Alcodis v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62018CJ0403	AT.40244	12 Mar 2015	Article 101 and 102 TFEU	Confirms the EC
C-312/18 P Judgment ECLI:EU:C:2019:235 Eco-Bat Technologies and Others v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62018CJ0312	AT.40018	21 Mar 2018	Article 101 TFEU	Confirms the EC
C-262/18 P Judgment ECLI:EU:C:2020:450 Commission v Důvera zdravotná poisťovňa	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62018CJ0262	SA.23008	15 Oct 2014	Article 107 TFEU	Confirms the EC
C-39/18 P Judgment ECLI:EU:C:2019:584 Commission v Icap and Others	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62018CJ0039	AT.39861	4 Feb 2015	Article 101 TFEU and Article 53 EEA	Annuls the EC
C-10/18 P Judgment ECLI:EU:C:2020:149 Marine Harvest v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62018CJ0010	M.7184	23 Jul 2014	Council Regulation (EC) No 139/2004	Confirms the EC
C-687/17 P Judgment ECLI:EU:C:2019:932 Aanbestedingskalender and Others v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62017CJ0687	SA.34646	18 Dec 2014	Article 107 TFEU	Confirms the EC
C-660/17 P Judgment ECLI:EU:C:2019:509 RF v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62017CJ0660	AT.40251	15 Sep 2016	Article 102 TFEU	Confirms the EC
C-654/17 P Judgment ECLI:EU:C:2019:634 Bayerische Motoren Werke v Commission and Freistaat Sachsen	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62017CJ0654	SA. 32009	9 Jul 2014	Article 108 TFEU	Confirms the EC
C-373/17 P Judgment ECLI:EU:C:2018:756 Agria Polska and Others v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62017CJ0373	C(2015) 4284	19 Jun 2015	Article 101 TFEU	Confirms the EC
C-265/17 P Judgment ECLI:EU:C:2019:23 Commission v United Parcel Service	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62017CJ0265	COMP/M.6570	30 Jan 2013	Article 101 TFEU and Article 53 EEA	Annuls the EC
C-114/17 P Judgment ECLI:EU:C:2018:753 Spain v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62017CJ0114	SA.27408	1 Oct 2014	Article 107 TFEU	Confirms the EC
C-98/17 P Judgment ECLI:EU:C:2018:774 Philips and Philips France v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62017CJ0098	AT.39574	3 Sep 2014	Article 101 TFEU and Article 53 EEA	Confirms the EC
C-93/17 P Judgment ECLI:EU:C:2018:903 Commission v Greece	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62017CJ0093	2009/610/EC	2 Jul 2008	Article 88 EC Treaty	Confirms the EC
C-91/17 P Judgment ECLI:EU:C:2018:284 Cellnex Telecom v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62017CJ0091	SA.27408	1 Oct 2014	Article 108 TFEU	Confirms the EC
C-622/16 P Judgment ECLI:EU:C:2018:873 Scuola Elementare Maria Montessori v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62016CJ0622	SA.20829	19 Dec 2012	Article 108 TFEU	Confirms the EC
C-601/16 P Judgment ECLI:EU:C:2021:244 Arrow Group and Arrow Generics v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62016CJ0601	AT.39226	19 Jun 2013	Article 101 and 102 TFEU	Confirms the EC
C-591/16 P Judgment ECLI:EU:C:2021:243 Lundbeck v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62016CJ0591	AT/39226	19 Jun 2013	Article 101 TFEU and Article 53 EEA	Confirms the EC
C-588/16 P Judgment ECLI:EU:C:2021:242 Generics (UK) v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62016CJ0588	AT/39226	19 Jun 2013	Article 101 TFEU and Article 53 EEA	Confirms the EC
C-586/16 P Judgment ECLI:EU:C:2021:241 Sun Pharmaceutical Industries and Ranbaxy (UK) v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62016CJ0586	AT/39226	19 Jun 2013	Article 101 TFEU and Article 53 EEA	Confirms the EC
C-487/16 P Judgment ECLI:EU:C:2017:961 Telefónica v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62016CJ0487	COMP/39.839	23 Jan 2013	Article 101 TFEU	Confirms the EC

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CJEU Reference	URL to the CJEU judgment	EC decision number	EC decision date	EC decision legal basis	Outcome of CJEU judgment
C-481/16 P Judgment ECLI:EU:C:2017:845 Commission v Greece	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62016CJ0481	2014/539/UE	27 Mar 2014	Article 108 TFEU	Confirms the EC
C-457/16 P Judgment ECLI:EU:C:2017:819 Global Steel Wire v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62016CJ0457	COMP/38344	30 Jun 2010	Article 101 TFEU	Confirms the EC
C-454/16 P Judgment ECLI:EU:C:2017:818 Global Steel Wire v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62016CJ0454	COMP/38344	30 Jun 2010	Article 101 TFEU	Confirms the EC
C-405/16 P Judgment ECLI:EU:C:2019:268 Germany v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62016CJ0405	SA. 33995	25 Nov 2014	Article 107 TFEU	Annuls the EC
C-363/16 P Judgment ECLI:EU:C:2018:12 Commission v Greece	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62016CJ0363	SA.26534	22 Feb 2012	Article 108 TFEU	Confirms the EC
C-300/16 P Judgment ECLI:EU:C:2017:706 Commission v Frucona Košice	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62016CJ0300	C 25/2005	16 Oct 2013	Article 107 TFEU	Confirms the EC
C-271/16 P Judgment ECLI:EU:C:2018:59 Panalpina World Transport (Holding) and Others v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62016CJ0271	COMP/39462	28 Mar 2012	Article 101 TFEU and Article 53 EEA	Confirms the EC
C-264/16 P Judgment ECLI:EU:C:2018:60 Deutsche Bahn and Others v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62016CJ0264	COMP/39462	28 Mar 2012	Article 101 TFEU and Article 53 EEA	Confirms the EC
C-263/16 P Judgment ECLI:EU:C:2018:58 Schenker v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62016CJ0263	COMP/39462	28 Mar 2012	Article 101 TFEU and Article 53 EEA	Confirms the EC
C-261/16 P Judgment ECLI:EU:C:2018:56 Kühne + Nagel International and Others v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62016CJ0261	COMP/39462	28 Mar 2012	Article 101 TFEU and Article 53 EEA	Confirms the EC
C-219/16 P Judgment ECLI:EU:C:2018:508 Lowell Financial Services v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62016CJ0219	C 7/10	26 Jan 2011	Article 107 TFEU	Confirms the EC
C-209/16 P Judgment ECLI:EU:C:2018:507 Germany v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62016CJ0209	C 7/10	26 Jan 2011	Article 107 TFEU	Annuls the EC
C-208/16 P Judgment ECLI:EU:C:2018:506 Germany v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62016CJ0208	C 7/10	26 Jan 2011	Article 107 TFEU	Annuls the EC
C-203/16 P Judgment ECLI:EU:C:2018:505 Andres (faillite Heitkamp BauHolding) v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62016CJ0203	C 7/10	26 Jan 2011	Article 107 TFEU	Annuls the EC
C-180/16 P Judgment ECLI:EU:C:2017:520 Toshiba v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62016CJ0180	COMP/39.966	24 Jan 2007	Article 101 TFEU and Article 53 EEA	Confirms the EC
C-127/16 P Judgment ECLI:EU:C:2018:165 SNCF Mobilités v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62016CJ0127	SA.12522	9 Mar 2012	Article 108 TFEU	Confirms the EC
C-123/16 P Judgment ECLI:EU:C:2018:590 Orange Polska v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62016CJ0123	COMP/39.525	22 Jun 2011	Article 102 TFEU	Confirms the EC
C-122/16 P Judgment ECLI:EU:C:2017:861 British Airways v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62016CJ0122	COMP/39258	9 Nov 2010	Article 101 TFEU and Article 53 EEA	Confirms the EC
C-100/16 P Judgment ECLI:EU:C:2017:194 Ellinikos Chrysos v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62016CJ0100	C 48/08	23 Feb 2011	Article 108 TFEU	Confirms the EC
C-81/16 P Judgment ECLI:EU:C:2017:1003 Spain v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62016CJ0081	SA.28599	19 Jun 2013	Article 108 TFEU	Confirms the EC
C-70/16 P Judgment ECLI:EU:C:2017:1002 Comunidad Autónoma de Galicia and Retegal v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62016CJ0070	SA.28599	19 Jun 2013	Article 108 TFEU	Annuls the EC
C-66/16 P Judgment ECLI:EU:C:2017:999 Comunidad Autónoma del País Vasco and Itelazpi v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62016CJ0066	SA.28599	19 Jun 2013	Article 108 TFEU	Confirms the EC
C-660/15 P Judgment ECLI:EU:C:2017:178 Viasat Broadcasting UK v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62015CJ0660	2011/839/EU	20 Apr 2011	Article 106 TFEU	Confirms the EC
C-656/15 P Judgment ECLI:EU:C:2017:836 Commission v TV2/Danmark	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62015CJ0656	C 2/03	20 Apr 2011	Article 106 TFEU	Confirms the EC
C-649/15 P Judgment ECLI:EU:C:2017:835 TV2/Danmark v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62015CJ0649	C 2/03	20 Apr 2011	Article 107 TFEU	Confirms the EC

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CJEU Reference	URL to the CJEU judgment	EC decision number	EC decision date	EC decision legal basis	Outcome of CJEU judgment
C-623/15 P Judgment ECLI:EU:C:2017:21 Toshiba v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62015CJ0623	COMP/39.437	5 Dec 2012	Article 101 TFEU and Article 53 EEA	Confirms the EC
C-615/15 P Judgment ECLI:EU:C:2017:190 Samsung SDI and Samsung SDI (Malaysia) v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62015CJ0615	COMP/39.437	5 Dec 2012	Article 101 TFEU and Article 53 EEA	Confirms the EC
C-588/15 P Judgment ECLI:EU:C:2017:679 LG Electronics v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62015CJ0588	COMP/39.437	5 Dec 2012	Article 101 TFEU and Article 53 EEA	Confirms the EC
C-519/15 P Judgment ECLI:EU:C:2016:682 Trafilerie Meridionali v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62015CJ0519	COMP/38344	30 Jun 2010	Article 101 TFEU and Article 53 EEA	Confirms the EC
C-517/15 P Judgment ECLI:EU:C:2017:598 AGC Glass Europe and Others v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62015CJ0517	C(2012) 5719	6 Aug 2012	Article 101 and 102 TFEU	Confirms the EC
C-516/15 P Judgment ECLI:EU:C:2017:314 Akzo Nobel and Others v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62015CJ0516	COMP/38589	11 Nov 2009	Article 53 EEA	Confirms the EC
C-490/15 P Judgment ECLI:EU:C:2016:678 Ori Martin v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62015CJ0490	COMP/38344	30 Jun 2010	Article 101 TFEU and Article 53 EEA	Confirms the EC
C-486/15 P Judgment ECLI:EU:C:2016:912 Commission v France and Orange	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62015CJ0486	2006/621/EC	2 Aug 2004	Article 107 TFEU	Annuls the EC
C-472/15 P Judgment ECLI:EU:C:2017:885 SACE and Sace BT v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62015CJ0472	SA.23425	20 Mar 2013	Article 107 TFEU	Confirms the EC
C-469/15 P Judgment ECLI:EU:C:2017:308 FSL and Others v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62015CJ0469	COMP/39482	12 Oct 2011	Article 101 and 102 TFEU	Confirms the EC
C-467/15 P Judgment ECLI:EU:C:2017:799 Commission v Italy	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62015CJ0467	SA.33726	17 Jul 2013	Article 108 TFEU	Confirms the EC
C-411/15 P Judgment ECLI:EU:C:2017:11 Timab Industries and CFPR v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62015CJ0411	COMP/38866	20 Jul 2010	Article 101 TFEU and Article 53 EEA	Confirms the EC
C-351/15 P Judgment ECLI:EU:C:2017:27 Commission v Total and Elf Aquitaine	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62015CJ0351	COMP/F/38.645	31 May 2006	Article 81 EC Treaty and Article 53 EEA	Annuls the EC
C-270/15 P Judgment ECLI:EU:C:2016:489 Belgium v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62015CJ0270	2011/678/EU	27 Jul 2011	Article 107 TFEU	Confirms the EC
C-211/15 P Judgment ECLI:EU:C:2016:798 Orange v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62015CJ0211	2012/540/EU	20 Dec 2011	Article 107 TFEU	Confirms the EC
C-164/15 P Judgment ECLI:EU:C:2016:990 Commission v Aer Lingus	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62015CJ0164	SA.29064	25 Jul 2012	Article 108 TFEU	Confirms the EC
C-162/15 P Judgment ECLI:EU:C:2017:205 Evonik Degussa v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62015CJ0162	COMP/F/38.620	13 Oct 2011	Article 81 EC Treaty and Article 53 EEA	Other (Annuls C(2012) 3534, otherwise confirms)
C-131/15 P Judgment ECLI:EU:C:2016:989 Club Hotel Loutraki and Others v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62015CJ0131	SA.33988	3 Oct 2012	Article 108 TFEU	Confirms the EC
C-101/15 P Judgment ECLI:EU:C:2016:631 Pilkington Group and Others v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62015CJ0101	COMP/39.125	12 Nov 2008	Article 81 EC Treaty and Article 53 EEA	Confirms the EC
C-100/15 P Judgment ECLI:EU:C:2016:254 Netherlands Maritime Technology Association v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62015CJ0100	SA.34736	20 Nov 2012	Article 108 TFEU	Confirms the EC
C-95/15 P Judgment ECLI:EU:C:2017:125 H&R ChemPharm v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62015CJ0095	COMP/39.181	1 Oct 2008	Article 81 EC Treaty and Article 53 EEA	Confirms the EC
C-94/15 P Judgment ECLI:EU:C:2017:124 Tudapetrol Mineralölerzeugnisse Nils Hansen v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62015CJ0094	COMP/39.181	1 Oct 2008	Article 81 EC Treaty and Article 53 EEA	Confirms the EC
C-90/15 P Judgment ECLI:EU:C:2017:123 Hansen & Rosenthal and H&R Wax Company Vertrieb v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62015CJ0090	COMP/39.181	1 Oct 2008	Article 81 EC Treaty and Article 53 EEA	Confirms the EC
C-89/15 P Judgment ECLI:EU:C:2017:713 Riva Fire v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62015CJ0089	COMP/37.956	8 Dec 2009	Article 65 ECSC	Annuls the EC
C-88/15 P Judgment ECLI:EU:C:2017:716 Ferriere Nord v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62015CJ0088	COMP/37.956	8 Dec 2009	Article 65 ECSC	Annuls the EC

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CJEU Reference	URL to the CJEU judgment	EC decision number	EC decision date	EC decision legal basis	Outcome of CJEU judgment
C-86/15 P Judgment ECLI:EU:C:2017:717 Ferriera Valsabbia and Valsabbia Investimenti v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62015CJ0086	COMP/37.956	30 Sep 2009	Article 65 ECSC	Annuls the EC
C-85/15 P Judgment ECLI:EU:C:2017:709 Feralpi v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62015CJ0085	COMP/37.956	30 Sep 2009	Article 65 ECSC	Annuls the EC
C-606/14 P Judgment ECLI:EU:C:2017:75 Portovesme v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62014CJ0606	2011/746/EU	23 Feb 2011	Article 108 TFEU	Confirms the EC
C-591/14 P Judgment ECLI:EU:C:2017:670 Commission v Belgium	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62014CJ0591	2011/678/EU	27 Jul 2011	Article 108 TFEU	Confirms the EC
C-524/14 P Judgment ECLI:EU:C:2016:971 Commission v Hansestadt Lübeck	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62014CJ0524	SA.27585	22 Feb 2012	Article 107 TFEU	Annuls the EC
C-514/14 P Judgment ECLI:EU:C:2016:55 Éditions Odile Jacob v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62014CJ0514	COMP/M.2978	13 May 2011	Council Regulation (EEC) No 4064/89	Confirms the EC
C-449/14 P Judgment ECLI:EU:C:2016:848 DTS Distribuidora de Televisión Digital v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62014CJ0449	2011/1/EU	20 Jul 2010	Article 106 TFEU	Confirms the EC
C-446/14 P Judgment ECLI:EU:C:2016:97 Germany v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62014CJ0446	SA.25051	25 Apr 2012	Article 107 TFEU	Confirms the EC
C-373/14 P Judgment ECLI:EU:C:2016:26 Toshiba Corporation v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62014CJ0373	COMP/39.129	7 Oct 2009	Article 81 EC treaty	Confirms the EC
C-367/14 P Judgment ECLI:EU:C:2015:611 Commission v Italy	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62014CJ0367	2000/394/CE	25 Nov 1999	Article 87 EC Treaty	Confirms the EC
C-357/14 P Judgment ECLI:EU:C:2015:642 Electrabel and Dunamenti Erőmű v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62014CJ0357	2009/609/EC	4 Jun 2008	Article 87 EC Treaty	Confirms the EC
C-268/14 P Judgment ECLI:EU:C:2016:152 Italmobiliare v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62014CJ0268	COMP/39520	30 Mar 2011	Article 101 and 102 TFEU	Annuls the EC
C-267/14 P Judgment ECLI:EU:C:2016:151 Buzzi Unicem v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62014CJ0267	COMP/39520	30 Mar 2011	Article 101 and 102 TFEU	Annuls the EC
C-248/14 P Judgment ECLI:EU:C:2016:150 Schwenk Zement v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62014CJ0248	COMP/39520	30 Mar 2011	Article 101 and 102 TFEU	Annuls the EC
C-247/14 P Judgment ECLI:EU:C:2016:149 HeidelbergCement v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62014CJ0247	COMP/39520	30 Mar 2011	Article 101 and 102 TFEU	Annuls the EC
C-231/14 P Judgment ECLI:EU:C:2015:451 InnoLux v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62014CJ0227	COMP/39.309	8 Dec 2010	Article 101 TFEU and Article 53 EEA	Confirms the EC
C-194/14 P Judgment ECLI:EU:C:2015:717 AC-Treuhand v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62014CJ0194	COMP/38589	11 Nov 2009	Article 81 EC Treaty and Article 53 EEA	Confirms the EC
C-155/14 P Judgment ECLI:EU:C:2016:446 Evonik Degussa and AlzChem v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62014CJ0155	COMP/39.396	22 Jul 2009	Article 81 EC Treaty and Article 53 EEA	Confirms the EC
C-154/14 P Judgment ECLI:EU:C:2016:445 SKW Stahl-Metallurgie and SKW Stahl-Metallurgie Holding v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62014CJ0154	COMP/39.396	22 Jul 2009	Article 81 EC Treaty and Article 53 EEA	Confirms the EC
C-63/14 P Judgment ECLI:EU:C:2015:458 Commission v France	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62014CJ0063	SA.22843	2 May 2013	Article 108 TFEU	Confirms the EC
C-37/14 P Judgment ECLI:EU:C:2015:90 Commission v France	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62014CJ0037	2009/402/CE	28 Jan 2009	Article 108 TFEU	Confirms the EC
C-33/14 P Judgment ECLI:EU:C:2015:609 Mory and Others v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62014CJ0033	C(2012) 2401	4 Apr 2012	Article 108 TFEU	Confirms the EC
C-15/14 P Judgment ECLI:EU:C:2015:362 Commission v MOL	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62014CJ0015	2011/88/EU	9 Jun 2010	Article 107 TFEU	Annuls the EC
C-674/13 P Judgment ECLI:EU:C:2015:302 Commission v Germany	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62013CJ0674	C 36/07	25 Jan 2012	Article 108 TFEU	Confirms the EC
C-644/13 P Judgment ECLI:EU:C:2017:59 Villeroy and Boch v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62013CJ0644	COMP/39092	23 Jun 2010	Article 101 TFEU and Article 53 EEA	Confirms the EC
C-642/13 P Judgment ECLI:EU:C:2017:58 Villeroy & Boch - Belgium v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62013CJ0642	COMP/39092	23 Jun 2010	Article 101 TFEU and Article 53 EEA	Confirms the EC

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CJEU Reference	URL to the CJEU judgment	EC decision number	EC decision date	EC decision legal basis	Outcome of CJEU judgment
C-636/13 P Judgment ECLI:EU:C:2017:56 Roca Sanitario v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62013CJ0636	COMP/39092	23 Jun 2010	Article 101 TFEU and Article 53 EEA	Confirms the EC
C-634/13 P Judgment ECLI:EU:C:2015:614 Total Marketing Services v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62013CJ0634	COMP/39.181	1 Oct 2008	Article 81 EC Treaty and Article 53 EEA	Confirms the EC
C-626/13 P Judgment ECLI:EU:C:2017:54 Villeroy & Boch Austria v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62013CJ0626	COMP/39092	23 Jun 2010	Article 101 TFEU and Article 53 EEA	Confirms the EC
C-625/13 P Judgment ECLI:EU:C:2017:52 Villeroy & Boch v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62013CJ0625	COMP/39092	23 Jun 2010	Article 101 TFEU and Article 53 EEA	Confirms the EC
C-619/13 P Judgment ECLI:EU:C:2017:50 Mamoli Robinetteria v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62013CJ0619	COMP/39092	23 Jun 2010	Article 101 TFEU and Article 53 EEA	Confirms the EC
C-618/13 P Judgment ECLI:EU:C:2017:48 Zucchetti Rubinetteria v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62013CJ0618	COMP/39092	23 Jun 2010	Article 101 TFEU and Article 53 EEA	Confirms the EC
C-617/13 P Judgment ECLI:EU:C:2016:416 Repsol Lubricantes y Especialidades and Others v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62013CJ0617	COMP/38.710	3 Oct 2007	Article 81 EC Treaty	Confirms the EC
C-616/13 P Judgment ECLI:EU:C:2016:415 PROAS v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62013CJ0616	COMP/38.710	3 Oct 2007	Article 81 EC Treaty	Confirms the EC
C-614/13 P Judgment ECLI:EU:C:2017:63 Masco and Others v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62013CJ0614	COMP/39092	23 Jun 2010	Article 101 TFEU and Article 53 EEA	Confirms the EC
C-611/13 P Judgment ECLI:EU:C:2017:47 Hansa Metallwerke and Others v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62013CJ0611	COMP/39092	23 Jun 2010	Article 101 TFEU and Article 53 EEA	Confirms the EC
C-609/13 P Judgment ECLI:EU:C:2017:46 Duravit and Others v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62013CJ0609	COMP/39092	23 Jun 2010	Article 101 TFEU and Article 53 EEA	Confirms the EC
C-608/13 P Judgment ECLI:EU:C:2016:414 CEPESA v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62013CJ0608	COMP/38.710	3 Oct 2007	Article 81 EC Treaty	Confirms the EC
C-604/13 P Judgment ECLI:EU:C:2017:45 Aloys F. Dornbracht v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62013CJ0604	COMP/39092	23 Jun 2010	Article 101 TFEU and Article 53 EEA	Confirms the EC
C-603/13 P Judgment ECLI:EU:C:2016:38 Galp Energia España and Others v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62013CJ0603	COMP/38.710	3 Oct 2007	Article 81 EC Treaty	Other (Sets aside, then fixes the amount of fines, otherwise confirms)
C-597/13 P Judgment ECLI:EU:C:2015:613 Total v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62013CJ0597	COMP/39.181	1 Oct 2008	Article 81 EC Treaty and Article 53 EEA	Other (Sets aside the fine amount, otherwise confirms)
C-583/13 P Judgment ECLI:EU:C:2015:404 Deutsche Bahn and Others v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62013CJ0583	COMP/39.678	14 Mar 2011	Article 81 EC Treaty	Other (Annuls C(2011) 2365 and C(2011) 5230, otherwise confirms)
C-293/13 P Judgment ECLI:EU:C:2015:416 Fresh Del Monte Produce v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62013CJ0293	COMP/39.188	15 Oct 2008	Article 81 EC Treaty	Confirms the EC
C-286/13 P Judgment ECLI:EU:C:2015:184 Dole Food and Dole Fresh Fruit Europe v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62013CJ0286	COMP/39.188	15 Oct 2008	Article 81 EC Treaty	Confirms the EC
C-93/13 P Judgment ECLI:EU:C:2015:150 Commission v Versalis and Eni	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62013CJ0093	COMP/38629	5 Dec 2007	Article 81 EC Treaty and Article 53 EEA	Confirms the EC

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CJEU reference	URL to the CJEU judgment	EC decision legal basis	GC judgment	Outcome of CJEU judgment	Type of judgment	Comments
C-201/19 P Judgment ECLI:EU:C:2024:552 Servier and Others v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uris=CELEX:62019CJ0201	Article 101 and 102 TFEU	Confirmed the EC decision	Other (Annuls the fine amount and end date of infringement, otherwise confirmed)	SUBSTANTIAL	The Court annuls the GC judgment (confirming the EC decision) regarding the end date of the infringement in several countries. "56. Servier relies on seven grounds in support of its appeal. The first ground of appeal alleges errors of law as regards the concept of restriction of competition by object within the meaning of Article 101(1) TFEU. The second ground of appeal alleges errors of law as regards potential competition exerted by the manufacturers of generic medicines on Servier. The third, fourth and fifth grounds of appeal concern the General Court's findings with respect to the Niche, Matrix, Teva and Lupin agreements. In the alternative, Servier alleges, by its sixth ground of appeal, errors of law as regards the characterisation of the Niche and Matrix agreements as separate infringements. In the further alternative, Servier alleges, by its seventh ground of appeal, breach of the principle of legality of criminal offences and penalties and of the principle of proportionality, as regards the fines imposed on it under Article 101 TFEU. 368. By its line of argument, Servier submits, in essence, that, by refusing to consider that the infringement relating to the Lupin agreement had ended in the markets in Belgium, the Czech Republic, Ireland and Hungary on the date on which a generic version of perindopril produced by Sandoz entered those markets, as it had done in respect of the French market, the Commission vitiated the decision at issue with contradictory reasoning and a manifest error of assessment, which the General Court should have censured. 376. In the present case, as recalled in paragraph 369 of the present judgment, the Commission, in the decision at issue, took as a criterion for determining the end of the infringement period not the date as of which the unlawful conduct had ceased as such, but rather 'the date as of which the generic competitors [had been] able to engage in competitive behaviour'. Consequently, in the absence of any indication to the contrary in the grounds of the judgment under appeal, it must be held that the situation resulting from the arrival on the national markets of the generic version of perindopril produced by Sandoz raised, in all the markets concerned, the question whether the non-marketing clause concerned continued to produce its effects. 377. However, in the judgment under appeal, the General Court did not put forward any explanation as to the reasons why the French market had been treated differently, in recital 2127 of the decision at issue, from the Belgian, Czech, Irish and Hungarian markets. It is true that in paragraph 900 of the judgment under appeal the General Court referred to uncertainties, even with regard to the French market, as to the date on which Lupin was free to enter that market on account of Sandoz's entry to that market, but it did not draw any conclusions therefrom as regards the date on which the infringement ended on that market. Thus, the judgment under appeal does not make it possible to understand why the Commission did not, according to the General Court, act unlawfully in treating the French market differently from the four other markets referred to above. 378. Although that question, which is linked to the situation resulting from Sandoz's arrival on the market, therefore arose in comparable terms in France, Belgium, the Czech Republic, Ireland and Hungary, the General Court did not uphold Servier's plea for annulment alleging contradictory reasoning in the decision at issue. 379. In the light of the foregoing, it must be held that the judgment under appeal is vitiated by an error of law and that the third part of the fifth ground of appeal must be upheld."
C-268/14 P Judgment ECLI:EU:C:2016:152 Italmobiliare v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uris=CELEX:62014CJ0268	Article 101 and 102 TFEU	Confirmed the EC decision	Annuls the GC	PROCEDURAL	The underpinning reasons for requesting information were excessively succinct, vague, and generic. "10. Le deuxième moyen est relatif à l'erreur de droit qu'aurait commise le Tribunal lors de l'examen du moyen tiré de la violation par la Commission de l'article 296 TFEU" "41. Toutefois, une motivation excessivement succincte, vague et générique et, à certains égards, ambiguë, ne saurait satisfaire aux exigences de motivation fixées par l'article 18, paragraphe 3, du règlement n° 1/2003 pour justifier une demande de renseignements qui, comme dans la présente affaire, est intervenue aux de deux années après les premières inspections, alors que la Commission avait déjà adressé plusieurs demandes de renseignements à des entreprises soupçonnées d'avoir participé à une infraction et plusieurs mois après la décision d'ouverture de la procédure. Compte tenu de ces éléments, il y a lieu de constater que la décision litigieuse a été adoptée à une date où la Commission disposait déjà d'informations qui lui aurait permis d'exposer avec davantage de précision les soupçons d'infraction qui pesaient sur les entreprises en cause." 43. Eu égard à l'ensemble des considérations qui précèdent, il y a lieu d'accueillir le deuxième moyen. 44. Il convient, en conséquence, d'annuler l'arrêt attaqué en tant que le Tribunal a considéré que la motivation de la décision litigieuse satisfaisait aux exigences de l'article 18, paragraphe 3, du règlement n° 1/2003, sans qu'il y ait lieu d'examiner les autres arguments et les autres moyens invoqués par la requérante."
C-267/14 P Judgment ECLI:EU:C:2016:151 Buzzi Unicem v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uris=CELEX:62014CJ0267	Article 101 and 102 TFEU	Confirmed the EC decision	Annuls the GC	SUBSTANTIAL	The Commission's decision, confirmed by the GC, was excessively vague, generic, and succinct in describing the products and geographical scope. "35. Indeed, first of all, the alleged infringement in the decision to initiate the procedure is also formulated in a particularly succinct, vague and generic manner, referring to 'restrictions on trade flows in the European Economic Area (EEA) including restrictions on imports into the EEA from countries outside the EEA, market sharing, price coordination and related anti-competitive practices'. 36. Next, as regards the products covered by the investigation, the decision to initiate the procedure refers, like the contested decision, to the markets for cement and related products. Although that decision states that 'cement and related products are to be understood as including cement, cement-based products (for example ready-mixed concrete) and other materials used to produce cement-based products directly or indirectly (for example clinker, aggregates, blast furnace slag, granulated blast furnace slag, ground granulated blast furnace slag, fly ash)', it should be noted that the products concerned by the investigation are mentioned therein only as examples. 37. Finally, as regards the geographical scope of the alleged infringement, the statement of reasons for the contested decision, read in conjunction with the decision to initiate proceedings, is ambiguous. According to the contested decision, the alleged infringement extends to the territory of the Union or the EEA. On the other hand, the decision to initiate proceedings, adopted three months earlier, refers to alleged infringements whose geographical scope concerns, 'in particular', Belgium, the Czech Republic, Germany, Spain, France, Italy, Luxembourg, the Netherlands, Austria and the United Kingdom. The ambiguity of the statement of reasons for the contested decision, read in conjunction with the decision to initiate proceedings, is reinforced in this regard by the content of the questionnaire annexed to the contested decision which, in addition to the ten Member States mentioned above, also concerns commercial transactions carried out in Denmark and Greece."
C-248/14 P Judgment ECLI:EU:C:2016:150 Schwenk Zement v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uris=CELEX:62014CJ0248	Article 101 and 102 TFEU	Other (Upheld the disproportionate nature of the response time, otherwise confirmed)	Annuls the GC	SUBSTANTIAL	The Commission's decision was excessively vague, generic, and succinct in describing the products and geographical scope. "37. However, the reasoning of this latter decision does not compensate for the succinct, vague and generic nature of the reasoning of the contested decision. 38. Indeed, first of all, the alleged infringement in the decision to initiate the procedure is also formulated in a particularly succinct, vague and generic manner, referring to 'restrictions on trade flows in the European Economic Area (EEA) including restrictions on imports into the EEA from countries outside the EEA, market sharing, price coordination and related anti-competitive practices'. 39. Next, as regards the products covered by the investigation, the decision to initiate the procedure refers, like the contested decision, to the markets for cement and related products. Although that decision states that 'cement and related products are to be understood as including cement, cement-based products (for example ready-mixed concrete) and other materials used to produce cement-based products directly or indirectly (for example clinker, aggregates, blast furnace slag, granulated blast furnace slag, ground granulated blast furnace slag, fly ash)', it should be noted that the products concerned by the investigation are mentioned therein only as examples. 40. Finally, as regards the geographical scope of the alleged infringement, the statement of reasons for the contested decision, read in conjunction with the decision to initiate proceedings, is ambiguous. According to the contested decision, the alleged infringement extends to the territory of the Union or the EEA. On the other hand, the decision to initiate proceedings, adopted three months earlier, refers to alleged infringements whose geographical scope concerns, 'in particular', Belgium, the Czech Republic, Germany, Spain, France, Italy, Luxembourg, the Netherlands, Austria and the United Kingdom. The ambiguity of the statement of reasons for the contested decision, read in conjunction with the decision to initiate proceedings, is reinforced in this regard by the content of the questionnaire annexed to the contested decision which, in addition to the ten Member States mentioned above, also concerns commercial transactions carried out in Denmark and Greece."
C-247/14 P Judgment ECLI:EU:C:2016:149 HeidelbergCement v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uris=CELEX:62014CJ0247	Article 101 and 102 TFEU	Confirmed the EC	Annuls the GC	PROCEDURAL	The Commission's decision was excessively vague, generic, and ambiguous in describing the alleged infringements and the scope of the request for information. "27. In that regard, it should be noted that, according to recital 6 of the decision at issue, the Commission asked the appellant to answer the questionnaire in Annex I to that decision. As noted by the Advocate General, in essence, in point 46 of his Opinion, the matters referred to in that annex are extremely numerous and cover very different types of information. In particular, the questionnaire in the annex requires the disclosure of extremely extensive and detailed information relating to a considerable number of transactions, both domestic and international, in relation to twelve Member States over a period of ten years. However, the decision at issue does not disclose, clearly and unequivocally, the suspicions of infringement which justify the adoption of that decision and does not make it possible to determine whether the requested information is necessary for the purposes of the investigation. 28. The first two recitals of the decision at issue only set out an excessively brief statement of reasons which is vague and generic, having regard in particular to the considerable length of the questionnaire appended to Annex I to that decision, which, as is stated in recital 6 of that decision, already takes into account the submissions made throughout the investigation by the undertakings being investigated. 40. Accordingly, the General Court erred in law in finding, in paragraph 43 of the judgment under appeal, that the decision at issue contained an adequate statement of reasons."
C-693/20 P Judgment ECLI:EU:C:2023:172 Intermarké Casino Achats v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uris=CELEX:62020CJ0693	Article 101 TFEU	Other (Annulled Art. 1b, otherwise confirmed)	Other (Sets aside points 2 and 3 of the GC decision)	PROCEDURAL	Procedural violations during the European Commission's inspection phase (the Commission did not comply with its obligation to properly record interviews with suppliers, as required under Article 19 of Regulation No 1/2003 and Article 3 of Regulation No 773/2004) "17. (...) the General Court infringed Article 19 of Regulation No 1/2003, Article 3 of Regulation No 773/2004 and Article 7 of the Charter of Fundamental Rights of the European Union ('the Charter') in finding that the minutes produced by the Commission, in order to establish that the indicia in its possession were sufficiently serious, were not vitiated by a procedural irregularity affecting their probative value (...). 124. Consequently, the interviews with suppliers fell within the scope of Article 19(1) of Regulation No 1/2003 and the Commission was required to record those declarations in accordance with Article 3 of Regulation No 773/2004. 125. It follows that the General Court erred in law in finding, in paragraph 202 of the judgment under appeal, that the obligation to record, provided for in Article 19 of Regulation No 1/2003 and Article 3 of Regulation No 773/2004, did not apply to interviews with suppliers and that the indicia obtained through those interviews were not vitiated by a procedural irregularity. 126. It follows from all the foregoing that the second ground of appeal is well founded and that, consequently, the appeal must be upheld and point 2 of the operative part of the judgment under appeal set aside, without its being necessary to rule on the third ground of appeal. Consequently, point 3 of the operative part of the judgment under appeal, relating to costs, must also be set aside."

Table 2: Reversals of DG Comp Decisions Before the CJEU (1 Nov. 2014 to 30 Nov. 2024)

CJEU reference	URL to the CJEU judgment	EC decision legal basis	GC judgment	Outcome of CJEU judgment	Type of judgment	Comments
						The Commission failed to record interviews before it has formally opened an investigation and used investigative powers. <p>"17. The appellants put forward four grounds of appeal in support of their appeal. The first ground of appeal alleges an error of law in that the General Court held that oral statements obtained by the Commission did not need to be recorded in order to serve as indicia justifying the decision at issue. (...) 81. By their first ground of appeal, the appellants complain, in essence, that the General Court erred in law, in paragraph 186 of the judgment under appeal, in finding that the Commission is not required to comply with the obligation to record interviews resulting from the combined provisions of Article 19 of Regulation No 1/2003 and Article 3 of Regulation No 773/2004 before it has formally opened an investigation and made use of the powers of investigation conferred on it in particular by Articles 18 to 20 of Regulation No 1/2003. 105. It follows that the General Court erred in law in finding, in paragraph 198 of the judgment under appeal, that the obligation to record, provided for in Article 19 of Regulation No 1/2003 and Article 3 of Regulation No 773/2004, did not apply to interviews with suppliers and that the indicia obtained through those interviews were not vitiated by a procedural irregularity. 106. It follows from all the foregoing that the first ground of appeal is well founded and that, consequently, the appeal must be upheld and point 2 of the operative part of the judgment under appeal set aside, without its being necessary to rule on the other grounds of appeal. Consequently, point 3 of the operative part of the judgment under appeal, relating to costs, must also be set aside. 110. In support of that complaint, the appellants submit that the minutes of the interviews with suppliers were not recordings complying with those provisions, since they had been drawn up unilaterally by the Commission and were not recordings of the entirety of those interviews. 111. The Commission contends that it fulfilled its obligation to record by drawing up exhaustive minutes that faithfully reflected the content of the suppliers' statements and placing them in the file under an official identification number. That type of minutes is one of the forms of recording which Article 3(3) of Regulation No 773/2004 allows the Commission to use, in the same way as it may use an audio or audiovisual recording or a verbatim transcription. 112. In that regard, it should be noted that the first sentence of Article 3(3) of Regulation No 773/2004, which states that the Commission 'may record the statements made by the persons interviewed in any form', implies that, if the Commission decides, with the consent of the person interviewed, to conduct an interview on the basis of Article 19(1) of Regulation No 1/2003, it must record the interview in full, without prejudice to the fact that the Commission is free to decide on the type of recording (judgment of 6 September 2017, Intel v Commission, C-413/14 P, EU:C:2017:632, paragraph 90). 113. In addition, it is apparent from the second and third sentences of Article 3(3) of Regulation No 773/2004 that the Commission must make a copy of the recording available to the person interviewed for approval and that, where necessary, it must set a time limit within which the person interviewed may communicate to it any correction to be made to the statement. 114. In the present case, the Commission has not alleged, still less proved, that it made the minutes which it had drawn up available to suppliers for approval. 115. The Commission's obligation to make a copy of the recording available to the person interviewed for approval, provided for in Article 19 of Regulation No 1/2003, read in conjunction with Article 3(3) of Regulation No 773/2004, is intended, in particular, to ensure the authenticity of the statements made by the person interviewed, by ensuring that those statements must actually be attributed to him or her and that their content faithfully and fully reflects those statements and not the Commission's interpretation of them. 116. Therefore, indicia obtained from a statement gathered by the Commission, without compliance with that requirement, imposed by Article 19 of Regulation No 1/2003, read in conjunction with Article 3(3) of Regulation No 773/2004, must be regarded as inadmissible and therefore be disregarded. 117. Thus, those purely internal minutes cannot be regarded as satisfying the requirements of Article 3(3) of Regulation No 773/2004, which applies to interviews falling within the scope of Article 19 of Regulation No 1/2003."</p>
C-690/20 P Judgment ECLI:EU:C:2023:171 Casino, Guichard-Perrachon and Achats Marchandises Casino v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uris=CELEX:62020CJ0690	Article 101 TFEU	Other (Annulled Art. 1b, otherwise confirmed)	Other (Sets aside points 2 and 3 of the GC decision)	PROCEDURAL	The Commission failed to record interviews before it has formally opened an investigation and used investigative powers. <p>"87. In the first place, it is apparent from the very wording of Article 19(1) of Regulation No 1/2003 that that regulation is intended to apply to any interview involving the collection of information relating to the subject matter of an investigation (judgment of 6 September 2017, Intel v Commission, C-413/14 P, EU:C:2017:632, paragraph 84). 88. Article 3 of Regulation No 773/2004, which makes interviews based on Article 19(1) of Regulation No 1/2003 subject to compliance with certain procedural rules, does not specify the scope of the latter provision. 94. The fact remains, however, that the classification of indicia or evidence depends not on a specific stage of the procedure, but on the probative value of the information concerned, since sufficiently serious and convergent indicia, gathered together as a 'bundle', can themselves prove an infringement and be used in the Commission's final decision adopted on the basis of Article 101 TFEU (see, to that effect, judgment of 1 July 2010, Knauf Gips v Commission, C-407/08 P, EU:C:2010:389, paragraph 47). 108. Consequently, the interviews with suppliers fell within the scope of Article 19(1) of Regulation No 1/2003 and the Commission was required to record those declarations in accordance with Article 3 of Regulation No 773/2004. 113. It is therefore necessary to examine the complaint, put forward by the appellants before the General Court in the context of their plea relating to the infringement of the right to the inviolability of the home, alleging, in essence, that the indicia obtained through interviews with suppliers must be rejected because of the Commission's failure to comply with Article 19 of Regulation No 1/2003 and Article 3 of Regulation No 773/2004. 114. In support of that complaint, the appellants submit that the minutes of the interviews with suppliers were not recordings complying with those provisions, since, inter alia, they had not been made available to the persons interviewed for approval. 115. The Commission contends that it fulfilled its obligation to record by drawing up exhaustive minutes that faithfully reflected the content of the suppliers' statements and placing them in the file under an official identification number. That type of minutes is one of the forms of recording which Article 3(3) of Regulation No 773/2004 allows the Commission to use, in the same way as it may use an audio or audiovisual recording or a verbatim transcription. 116. In that regard, it should be noted that the first sentence of Article 3(3) of Regulation No 773/2004, which states that the Commission 'may record the statements made by the persons interviewed in any form', implies that, if the Commission decides, with the consent of the person interviewed, to conduct an interview on the basis of Article 19(1) of Regulation No 1/2003, it must record the interview in full, without prejudice to the fact that the Commission is free to decide on the type of recording (judgment of 6 September 2017, Intel v Commission, C-413/14 P, EU:C:2017:632, paragraph 90). 117. In addition, it is apparent from the second and third sentences of Article 3(3) of Regulation No 773/2004 that the Commission must make a copy of the recording available to the person interviewed for approval and that, where necessary, it must set a time limit within which the person interviewed may communicate to it any correction to be made to the statement. 118. In the present case, the Commission has not alleged, still less proved, that it made the minutes which it had drawn up available to suppliers for approval. 119. The Commission's obligation to make a copy of the recording available to the person interviewed for approval, provided for in Article 19 of Regulation No 1/2003, read in conjunction with Article 3(3) of Regulation No 773/2004, is intended, in particular, to ensure the authenticity of the statements made by the person interviewed, by ensuring that those statements must actually be attributed to him or her and that their content faithfully and fully reflects those statements and not the Commission's interpretation of them. 120. Therefore, indicia obtained from a statement gathered by the Commission, without compliance with that requirement, imposed by Article 19 of Regulation No 1/2003, read in conjunction with Article 3(3) of Regulation No 773/2004, must be regarded as inadmissible and therefore be disregarded. 121. Thus, those purely internal minutes cannot be regarded as satisfying the requirements of Article 3(3) of Regulation No 773/2004, which applies to interviews falling within the scope of Article 19 of Regulation No 1/2003."</p>
C-682/20 P Judgment ECLI:EU:C:2023:170 Les Mousquetaires and ITM Entreprises v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uris=CELEX:62020CJ0682	Article 101 TFEU	Other (Annulled Art. 1b, otherwise confirmed)	Other (Sets aside points 2 and 3 of the GC decision)	PROCEDURAL	The Commission argued that there were several separate infringements, which was not supported. <p>"32. The operative part of the decision at issue, in so far as it concerns the appellants, reads as follows: 'Article 1 The following undertakings infringed Article 101 TFEU and Article 53 of the EEA Agreement by participating, during the periods indicated, in a single and continuous infringement, which consisted of several separate infringements, in the [ODD] sector covering the whole of the EEA, which consisted of price coordination arrangements...:(e) [the appellants], jointly and severally liable: EUR 41304000; 89. It follows that the General Court could not, without erring in law, hold that the Commission had not breached the appellants' rights of defence, since the statement of objections did not contain the essential elements found against them as regards those separate infringements, in particular the legal characterisation envisaged for the forms of conduct alleged against them. 99. It follows that, in holding that the Commission had satisfied its obligation to state reasons for the decision at issue finding that the appellants had, in addition to their participation in a single and continuous infringement, also participated in several separate infringements, the General Court erred in law. 165. By the first plea in their action before the General Court, the appellants claim that, in stating for the first time in the decision at issue that they had participated in several separate infringements comprising the single and continuous infringement imputed to them, without having alleged such participation during the administrative procedure, the Commission breached their rights of defence. According to the appellants, that decision is also vitiated by a failure to state reasons, on the ground that the Commission did not state therein the reasons why it considered that the appellants had participated in those separate infringements. 166. As regards the complaint alleging breach of the obligation to state reasons, it must be held, for the reasons set out in paragraphs 91 to 99 of this judgment, that the Commission did not state reasons for its decision as to the appellants' participation in those separate infringements. 167. Accordingly, the first plea raised by the appellants in support of their action must be upheld in respect of the complaint that the Commission did not sufficiently state its reasons for the decision at issue as regards the appellants' participation in those separate infringements. 168. Having regard to the foregoing, in the light of what has been stated in paragraphs 68 to 71 of this judgment and without it being necessary to examine the other arguments raised in connection with the first plea, Article 1(e) of the decision at issue must be annulled in so far as it finds that the appellants infringed Article 101 TFEU and Article 53 of the EEA Agreement by participating in several separate infringements. 179. In those circumstances, Article 1(e) of the decision at issue must be annulled in so far as it finds that the appellants infringed Article 101 TFEU and Article 53 of the EEA Agreement by participating in several separate infringements, and the action must be dismissed as to the remainder."</p>
C-440/19 P Judgment ECLI:EU:C:2021:214 Pometon v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uris=CELEX:62019CJ0440	Article 101 TFEU	Other (Annulled Art. 2, otherwise confirmed)	Other (Sets aside paragraphs 2 and 4 of T-433/16, otherwise confirms)	SUBSTANTIAL	
C-700/19 P Judgment ECLI:EU:C:2022:484 Toshiba Samsung Storage Technology and Toshiba Samsung Storage Technology Korea v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uris=CELEX:62019CJ0700	Article 101 TFEU and Article 53 EEA	Confirmed the EC	Annuls the GC	PROCEDURAL AND SUBSTANTIAL	

Table 2: Reversals of DG Comp Decisions Before the CJEU (1 Nov. 2014 to 30 Nov. 2024)

CJEU reference	URL to the CJEU judgment	EC decision legal basis	GC judgment	Outcome of CJEU judgment	Type of judgment	Comments
C-699/19 P Judgment ECLI:EU:C:2022:483 Quanta Storage v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uris=CELEX:62019CJ0699	Article 101 TFEU and Article 53 EEA	Confirmed the EC	Annuls the GC	PROCEDURAL AND SUBSTANTIAL	<p>The Commission argued that there were several separate infringements, which was not supported.</p> <p>"29. The operative part of the decision at issue, in so far as it concerns the appellant, reads as follows: 'Article 1 The following undertakings infringed Article 101 TFEU and Article 53 of the EEA Agreement by participating, during the periods indicated, in a single and continuous infringement, which consisted of several separate infringements, in the [ODD] sector covering the whole of the EEA, which consisted of price coordination arrangements... (h)[the appellant] from 14 February 2008 to 28 October 2008, for its coordination with regards to Dell and HP. 69. In paragraph 65 of the judgment under appeal, the General Court indeed found that a number of elements set out in the statement of objections indicated that the Commission considered that the cartel consisted of different agreements. However, the General Court could not deduce from those general considerations, or even from the bilateral contacts identified in that statement of objections and referred to in paragraph 69 of that judgment, that the Commission had clearly set out in that statement the evidence necessary to enable the appellant to understand that the Commission had, in addition to a single and continuous infringement, also intended to allege against it, as separate infringements, each of the forms of conduct or combinations of forms of conduct in which the appellant had directly participated, taken in isolation. 70. By so doing, the General Court erred in law. By confusing the concepts 'conduct' and 'infringement', moreover implicitly, the appellant could not understand, in the absence of any clear indication in the statement of objections, that the Commission intended to allege against it, not only the single and continuous infringement alleged in that statement, but also several separate infringements consisting of the various bilateral contacts referred to in that statement. 71. It follows that the General Court could not, without erring in law, hold that the Commission had not breached the appellant's rights of defence, since the statement of objections did not contain the essential elements found against it as regards those separate infringements, in particular the legal characterisation envisaged for the forms of conduct or combinations of forms of conduct alleged against it. 149. By the first part of the first plea in that action, the appellant claims inter alia that, by stating for the first time in the decision at issue that it had participated in several separate infringements comprising the single and continuous infringement imputed to it, without having alleged such participation during the administrative procedure, the Commission breached its rights of defence. 150. In the light of paragraphs 54 to 72 of the present judgment, it must be held that the Commission breached the appellant's rights of defence by accusing it, in the decision at issue, of participating in several separate infringements comprising the single and continuous infringement imputed to it, without having clearly set out that accusation in the statement of objections. 151. That said, it must be stated that a procedural irregularity will entail the annulment of a decision in whole or in part only if it is shown that in the absence of such irregularity that decision might have been substantively different (judgment of 11 March 2020, Commission v Gmina Miasto Gdynia and Port Lotniczy Gdynia Kosakowo, C-56/18 P, EU:C:2020:192, paragraph 80). 152. In the present case, the breach of the appellant's rights of defence led the Commission to impute to the appellant infringements in respect of which it was unable to defend itself. Had the Commission explicitly stated, during the administrative procedure, the legal characterisation envisaged for each of the forms of conduct of which it intended to accuse the appellant, the appellant might have been able to put forward evidence capable of calling those characterisations into question. It follows that in the absence of that breach the decision at issue might have been substantively different. 153. Accordingly, the first plea raised by the appellant in support of its action must be upheld in so far as it alleges that the Commission breached the appellant's rights of defence as regards its participation in the separate infringements. 169. In the light of all the foregoing considerations, Article 1(h) of the decision at issue must be annulled in so far as it finds that the appellant infringed Article 101 TFEU and Article 53 of the EEA Agreement by participating in several separate infringements, and the action must be dismissed as to the remainder."</p> <p>The Commission argued there were several separate infringements, which was not supported.</p> <p>"31. The operative part of the decision at issue, in so far as it concerns the appellants, reads as follows: 'Article 1 The following undertakings infringed Article 101 TFEU and Article 53 of the EEA Agreement by participating, during the periods indicated, in a single and continuous infringement, which consisted of several separate infringements, in the [ODD] sector covering the whole of the EEA, which consisted of price coordination arrangements... (g)Sony Optiarc ... from 25 July 2007 to 29 October 2008, Sony Optiarc America ... from 25 July 2007 to 31 October 2007, for their coordination with regards to Dell; 75. By so doing, the General Court erred in law. Contrary to what the General Court held in paragraphs 211, 212 and 219 of the judgment under appeal, by confusing, moreover implicitly, the concept of 'conduct' and that of 'infringement', the appellants could not understand, in the absence of any clear indication in the statement of objections, that the Commission intended to allege against them, not only the single and continuous infringement alleged in that statement, but also several separate infringements consisting of the different bilateral contacts referred to in that statement. 76. It follows that the General Court could not, without erring in law, hold that the Commission had not infringed the appellants' rights of defence, since the statement of objections did not contain the essential elements found against them as regards those separate infringements, in particular the legal characterisation envisaged for the forms of conduct alleged against them. 85. It follows that, in holding that the Commission had satisfied its obligation to state reasons for the decision at issue finding that the appellants had, in addition to their participation in a single and continuous infringement, also participated in several separate infringements, the General Court committed an error of law. 164. In the context of their first plea before the General Court, the appellants submit, as regards their participation in the separate infringements comprising the single and continuous infringement which was imputed to them, that the Commission did not formulate that allegation in the course of the administrative procedure, and that it was in breach of their rights of defence that that allegation was presented for the first time in the decision at issue. They submit that that decision is also vitiated by a failure to state reasons as to the finding of those separate infringements. 165. As regards the complaint of a breach of the obligation to state reasons, it must be held, for the reasons set out in paragraphs 78 to 90 of this judgment, that the Commission did not state reasons for its decision as to the appellants' participation in those separate infringements comprising the single and continuous infringement imputed to them. 166. Therefore, without it being necessary to examine the other arguments raised as part of the appellants' first plea in support of their action, that plea must be upheld in respect of the complaint that the Commission did not sufficiently state its reasons for the decision at issue as regards their participation in those separate infringements. 167. Having regard to the foregoing, and in the light of what has been stated in paragraphs 55 to 58 of this judgment, Article 1(g) of the decision at issue must be annulled to the extent that it finds that the appellants infringed Article 101 TFEU and Article 53 of the EEA Agreement by participating in several separate infringements. 176. In the light of all the foregoing considerations, Article 1(g) of the decision at issue must be annulled in so far as it finds that the appellants infringed Article 101 TFEU and Article 53 of the EEA Agreement by participating in several separate infringements, and the remainder of the action must be dismissed."</p> <p>The Commission argued there were several separate infringements, which was not supported in the statement of objections.</p> <p>"34. The operative part of the decision at issue, in so far as it concerns the appellants, reads as follows: 'Article 1 The following undertakings infringed Article 101 TFEU and Article 53 of the EEA Agreement by participating, during the periods indicated, in a single and continuous infringement, which consisted of several separate infringements, in the [ODD] sector covering the whole of the EEA, which consisted of price coordination arrangements... (f) [the appellants] from 23 August 2004 to 15 September 2006, for their coordination with regards to Dell. 79. It follows that the General Court could not, without erring in law, hold that the Commission had not infringed the appellants' rights of defence, since the statement of objections did not contain the essential elements found against them as regards those separate infringements, in particular the legal characterisation envisaged for the forms of conduct alleged against them. 88. It follows that, in holding that the Commission had satisfied its obligation to state reasons for the decision at issue finding that the appellants had, in addition to their participation in a single and continuous infringement, also participated in several separate infringements, the General Court committed an error of law. 169. In the context of their first plea before the General Court, the appellants submit, as regards their participation in the separate infringements comprising the single and continuous infringement which was imputed to them, that the Commission did not formulate that allegation in the course of the administrative procedure, and that it was in breach of their rights of defence that that allegation was presented for the first time in the decision at issue. They submit that that decision is also vitiated by a failure to state reasons as to the finding of those separate infringements. 170. As regards the complaint of a breach of the obligation to state reasons, it must be held, for the reasons set out in paragraphs 81 to 89 of this judgment, that the Commission did not state reasons for its decision as to the appellants' participation in those separate infringements comprising the single and continuous infringement imputed to them. 171. Therefore, without it being necessary to examine the other arguments raised as part of the appellants' first plea in support of their action, that plea must be upheld in respect of the complaint that the Commission did not sufficiently state its reasons for the decision at issue as regards their participation in those separate infringements. 172. Having regard to the foregoing, and in the light of what has been stated in paragraphs 58 to 61 of this judgment, Article 1(f) of the decision at issue must be annulled to the extent that it finds that the appellants infringed Article 101 TFEU and Article 53 of the EEA Agreement by participating in several separate infringements. 181. In the light of all the foregoing considerations, Article 1(f) of the decision at issue must be annulled in so far as it finds that the appellants infringed Article 101 TFEU and Article 53 of the EEA Agreement by participating in several separate infringements, and the remainder of the action must be dismissed."</p>
C-698/19 P Judgment ECLI:EU:C:2022:480 Sony Optiarc and Sony Optiarc America v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uris=CELEX:62019CJ0698	Article 101 TFEU and Article 53 EEA	Confirmed the EC	Annuls the GC	PROCEDURAL AND SUBSTANTIAL	<p>"31. The operative part of the decision at issue, in so far as it concerns the appellants, reads as follows: 'Article 1 The following undertakings infringed Article 101 TFEU and Article 53 of the EEA Agreement by participating, during the periods indicated, in a single and continuous infringement, which consisted of several separate infringements, in the [ODD] sector covering the whole of the EEA, which consisted of price coordination arrangements... (g)Sony Optiarc ... from 25 July 2007 to 29 October 2008, Sony Optiarc America ... from 25 July 2007 to 31 October 2007, for their coordination with regards to Dell; 75. By so doing, the General Court erred in law. Contrary to what the General Court held in paragraphs 211, 212 and 219 of the judgment under appeal, by confusing, moreover implicitly, the concept of 'conduct' and that of 'infringement', the appellants could not understand, in the absence of any clear indication in the statement of objections, that the Commission intended to allege against them, not only the single and continuous infringement alleged in that statement, but also several separate infringements consisting of the different bilateral contacts referred to in that statement. 76. It follows that the General Court could not, without erring in law, hold that the Commission had not infringed the appellants' rights of defence, since the statement of objections did not contain the essential elements found against them as regards those separate infringements, in particular the legal characterisation envisaged for the forms of conduct alleged against them. 85. It follows that, in holding that the Commission had satisfied its obligation to state reasons for the decision at issue finding that the appellants had, in addition to their participation in a single and continuous infringement, also participated in several separate infringements, the General Court committed an error of law. 164. In the context of their first plea before the General Court, the appellants submit, as regards their participation in the separate infringements comprising the single and continuous infringement which was imputed to them, that the Commission did not formulate that allegation in the course of the administrative procedure, and that it was in breach of their rights of defence that that allegation was presented for the first time in the decision at issue. They submit that that decision is also vitiated by a failure to state reasons as to the finding of those separate infringements. 165. As regards the complaint of a breach of the obligation to state reasons, it must be held, for the reasons set out in paragraphs 78 to 90 of this judgment, that the Commission did not state reasons for its decision as to the appellants' participation in those separate infringements comprising the single and continuous infringement imputed to them. 166. Therefore, without it being necessary to examine the other arguments raised as part of the appellants' first plea in support of their action, that plea must be upheld in respect of the complaint that the Commission did not sufficiently state its reasons for the decision at issue as regards their participation in those separate infringements. 167. 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The operative part of the decision at issue, in so far as it concerns the appellants, reads as follows: 'Article 1 The following undertakings infringed Article 101 TFEU and Article 53 of the EEA Agreement by participating, during the periods indicated, in a single and continuous infringement, which consisted of several separate infringements, in the [ODD] sector covering the whole of the EEA, which consisted of price coordination arrangements... (f) [the appellants] from 23 August 2004 to 15 September 2006, for their coordination with regards to Dell. 79. It follows that the General Court could not, without erring in law, hold that the Commission had not infringed the appellants' rights of defence, since the statement of objections did not contain the essential elements found against them as regards those separate infringements, in particular the legal characterisation envisaged for the forms of conduct alleged against them. 88. It follows that, in holding that the Commission had satisfied its obligation to state reasons for the decision at issue finding that the appellants had, in addition to their participation in a single and continuous infringement, also participated in several separate infringements, the General Court committed an error of law. 169. In the context of their first plea before the General Court, the appellants submit, as regards their participation in the separate infringements comprising the single and continuous infringement which was imputed to them, that the Commission did not formulate that allegation in the course of the administrative procedure, and that it was in breach of their rights of defence that that allegation was presented for the first time in the decision at issue. They submit that that decision is also vitiated by a failure to state reasons as to the finding of those separate infringements. 170. As regards the complaint of a breach of the obligation to state reasons, it must be held, for the reasons set out in paragraphs 81 to 89 of this judgment, that the Commission did not state reasons for its decision as to the appellants' participation in those separate infringements comprising the single and continuous infringement imputed to them. 171. Therefore, without it being necessary to examine the other arguments raised as part of the appellants' first plea in support of their action, that plea must be upheld in respect of the complaint that the Commission did not sufficiently state its reasons for the decision at issue as regards their participation in those separate infringements. 172. Having regard to the foregoing, and in the light of what has been stated in paragraphs 58 to 61 of this judgment, Article 1(f) of the decision at issue must be annulled to the extent that it finds that the appellants infringed Article 101 TFEU and Article 53 of the EEA Agreement by participating in several separate infringements. 181. In the light of all the foregoing considerations, Article 1(f) of the decision at issue must be annulled in so far as it finds that the appellants infringed Article 101 TFEU and Article 53 of the EEA Agreement by participating in several separate infringements, and the remainder of the action must be dismissed."</p>
C-697/19 P Judgment ECLI:EU:C:2022:478 Sony Corporation and Sony Electronics v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uris=CELEX:62019CJ0697	Article 101 TFEU and Article 53 EEA	Confirmed the EC	Annuls the GC	PROCEDURAL AND SUBSTANTIAL	<p>"34. The operative part of the decision at issue, in so far as it concerns the appellants, reads as follows: 'Article 1 The following undertakings infringed Article 101 TFEU and Article 53 of the EEA Agreement by participating, during the periods indicated, in a single and continuous infringement, which consisted of several separate infringements, in the [ODD] sector covering the whole of the EEA, which consisted of price coordination arrangements... (f) [the appellants] from 23 August 2004 to 15 September 2006, for their coordination with regards to Dell. 79. It follows that the General Court could not, without erring in law, hold that the Commission had not infringed the appellants' rights of defence, since the statement of objections did not contain the essential elements found against them as regards those separate infringements, in particular the legal characterisation envisaged for the forms of conduct alleged against them. 88. It follows that, in holding that the Commission had satisfied its obligation to state reasons for the decision at issue finding that the appellants had, in addition to their participation in a single and continuous infringement, also participated in several separate infringements, the General Court committed an error of law. 169. In the context of their first plea before the General Court, the appellants submit, as regards their participation in the separate infringements comprising the single and continuous infringement which was imputed to them, that the Commission did not formulate that allegation in the course of the administrative procedure, and that it was in breach of their rights of defence that that allegation was presented for the first time in the decision at issue. They submit that that decision is also vitiated by a failure to state reasons as to the finding of those separate infringements. 170. As regards the complaint of a breach of the obligation to state reasons, it must be held, for the reasons set out in paragraphs 81 to 89 of this judgment, that the Commission did not state reasons for its decision as to the appellants' participation in those separate infringements comprising the single and continuous infringement imputed to them. 171. Therefore, without it being necessary to examine the other arguments raised as part of the appellants' first plea in support of their action, that plea must be upheld in respect of the complaint that the Commission did not sufficiently state its reasons for the decision at issue as regards their participation in those separate infringements. 172. Having regard to the foregoing, and in the light of what has been stated in paragraphs 58 to 61 of this judgment, Article 1(f) of the decision at issue must be annulled to the extent that it finds that the appellants infringed Article 101 TFEU and Article 53 of the EEA Agreement by participating in several separate infringements. 181. In the light of all the foregoing considerations, Article 1(f) of the decision at issue must be annulled in so far as it finds that the appellants infringed Article 101 TFEU and Article 53 of the EEA Agreement by participating in several separate infringements, and the remainder of the action must be dismissed."</p>

Table 2: Reversals of DG Comp Decisions Before the CJEU (1 Nov. 2014 to 30 Nov. 2024)

CJEU reference	URL to the CJEU judgment	EC decision legal basis	GC judgment	Outcome of CJEU judgment	Type of judgment	Comments
C-301/19 P Judgment ECLI:EU:C:2021:39 Commission v Printeos	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0301	Article 101 TFEU and Article 53 EEA	Annulled the EC	Other (Sets aside point 2 of the GC decision)	PROCEDURAL	<p>The Commission argued it had not done harm to Printeos; however, even an infringement of EU law is sufficient to qualify as a breach.</p> <p>"102. Only the Commission's argument that its failure to pay default interest to Printeos does not constitute a sufficiently serious breach of Article 266 TFEU, and did not cause Printeos any harm, need therefore be examined.</p> <p>103. In that regard, it must be borne in mind that, according to settled case-law of the Court, where an EU institution has only considerably reduced, or even no, discretion, the mere infringement of EU law may be sufficient to establish the existence of a sufficiently serious breach of EU law capable of giving rise to the European Union's non-contractual liability (judgments of 4 July 2000, Bergaderm and Goupil v Commission, C-352/98 P, EU:C:2000:361, paragraph 44, and of 19 April 2007, Holcim (Deutschland) v Commission, C-282/05 P, EU:C:2007:226, paragraph 47).</p> <p>122. In the present case, it should be noted, first, that the Commission's obligation to include default interest on the repayment of the amount of the fine provisionally paid by Printeos follows from Article 266 TFEU and the case-law of the Court of Justice interpreting that provision, in particular the judgment of 12 February 2015, Commission v IPK International (C-336/13 P, EU:C:2015:83, paragraphs 31 and 71).</p> <p>123. Second, according to paragraphs 22 and 25 of the judgment under appeal, Printeos had clearly reminded the Commission of its obligations under Article 266 TFEU and the related case-law and requested not only repayment of the amount of the fine which it had provisionally paid, but also the payment of interest on that amount, from the date of payment of that amount until the date of its repayment. The Commission refused, however, to pay such interest and confined itself to repayment of the amount of that fine.</p> <p>124. Those particular circumstances of the present case justified the interest claimed by Printeos in its action before the Court being compounded. In the absence of such compound interest, Printeos would not be compensated for the loss of enjoyment, during the period from the date on which it brought its action until the date of delivery of the judgment under appeal, of the amount of interest which it was entitled, in accordance with Article 266 TFEU, to receive at the same time as repayment of the amount of the fine which it had provisionally paid to the Commission, despite the fact that it had clearly requested the Commission to pay such interest, which it refused unlawfully to pay.</p> <p>125. It follows that, by rejecting, in paragraph 77 of the judgment under appeal, Printeos's second head of claim, in respect of the period from 31 March 2017, the General Court erred in law."</p>
C-132/19 P Judgment ECLI:EU:C:2020:1007 Groupe Canal + v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0132	Article 101 TFEU and Article 53 EEA	Confirmed the EC	Annuls the GC	PROCEDURAL	<p>The Commission required a commitment to not execute a contractual clause, violating contractual freedom.</p> <p>"8. The ninth paragraph of Clause 1 of the annex to the contested decision sets out various types of clauses forming the subject matter of the procedure ("the relevant clauses"). As regards satellite transmission, the relevant clauses are the first clause, according to which reception in territories other than the licensed territory (overspill) is not to constitute a breach of contract by the broadcaster if the broadcaster has not knowingly authorised that reception, and the second clause, according to which reception in the licensed territory is not to constitute a breach of contract by Paramount if Paramount has not authorised the availability of a third party's descrambling devices in that territory. Furthermore, as regards internet transmission, the relevant clauses are, first, the clause requiring broadcasters to prevent the downloading or streaming of audiovisual content outside the licensed territory, second, the clause according to which internet overspill in the licensed territory is not to constitute a breach of contract by Paramount if Paramount has required broadcasters to use technologies to prevent such overspill; and, third, the clause according to which internet overspill outside the licensed territory is not to constitute a breach of contract by the broadcaster if the broadcaster uses technology to prevent such overspill.</p> <p>9. It is also apparent from the third paragraph of Clause 1 of the annex to the contested decision that "Broadcaster Obligation" is to mean the relevant clauses or equivalent clauses preventing a broadcaster from responding to unsolicited requests from consumers residing in the EEA but outside the territories for which the broadcaster has a broadcasting right. Similarly, "Paramount Obligation" is to mean the relevant clauses or equivalent clauses requiring Paramount to prohibit broadcasters located in the EEA but outside the territories for which a broadcaster has exclusive rights from responding to unsolicited requests from consumers residing in those territories.</p> <p>116. In those circumstances, it must be held that the General Court was wrong to hold, in essence, in paragraphs 96 to 106 of the judgment under appeal, that the possibility for Paramount's contracting partners, including Groupe Canal +, to bring an action before the national courts was capable of remedying the effects of Paramount's commitments, made binding by the contested decision, on the contractual rights of those contracting parties, established in paragraph 95 of that judgment.</p> <p>124. As is apparent from paragraph 107 of this judgment, where the commitment consists in not executing a contractual clause that confers rights on a third party, recognising that the Commission has the power to make the commitment binding on that third party when that third party did not offer it and was not the subject of the proceedings initiated by the Commission would constitute an interference in the contractual freedom of the operator in question going beyond the provisions of Article 9 of Regulation No 1/2003."</p>
C-607/18 P Judgment ECLI:EU:C:2020:385 NKT Verwaltung and NKT v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62018CJ0607	Article 101 TFEU and Article 53 EEA	Confirmed the EC	Other (Sets aside point 1 of the original judgement, annuls the EC decision in part, but otherwise confirms)	PROCEDURAL AND SUBSTANTIAL	<p>The Commission used overbroad definitions for "power cables."</p> <p>"298. With regard, first, to the appellants' liability for the infringement at issue to the extent that it concerns conduct related to sales in countries that are not members of the Union or the EEA, it should be noted that, as the appellants were not afforded the opportunity to conduct their defence properly during the administrative procedure as regards that aspect of the infringement at issue, the decision at issue must be annulled in so far as it imposes such liability on the appellants (see, to that effect, judgment of 27 March 2014, Ballast Nedam v Commission, C-612/12 P, EU:C:2014:193, paragraph 38).</p> <p>299. With regard, second, to the appellants' liability for the infringement at issue to the extent that it concerns a collective refusal to supply accessories and technical assistance to competitors not participating in the cartel, it must be held that the Commission did not establish in the decision at issue that the appellants were aware of that aspect of the infringement at issue or could reasonably have foreseen it. Accordingly, the decision at issue must be annulled in so far as the appellants were held liable for that aspect of the infringement at issue.</p> <p>300. With regard, third, to the allocation of underground power cable projects in the EEA in the period from 3 July 2002 to 21 November 2002, it must be noted that the Commission did not identify any evidence that would demonstrate that the appellants had participated in that aspect of the infringement at issue during that period. Accordingly, the decision at issue must be annulled in so far as the appellants were held liable for that aspect of the infringement at issue during that period.</p> <p>301. Accordingly, the decision at issue must be annulled in so far as it finds the appellants liable for an infringement of Article 101 TFEU and Article 53 of the EEA Agreement, and in so far as that infringement concerns, first, conduct related to sales in countries that are not members of the Union or the EEA; second, a collective refusal to supply accessories and technical assistance to competitors not participating in the cartel; and, third, as regards the period from 3 July 2002 to 21 November 2002, the allocation of underground power cable projects in the EEA."</p>
C-593/18 P Judgment ECLI:EU:C:2019:1027 ABB v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62018CJ0593	Article 101 TFEU and Article 53 EEA	Confirmed the EC	Other (Sets aside point 1 of the GC decision)	SUBSTANTIAL	<p>"98. However, as was stated in paragraph 43 above, the Commission had confined itself to explaining in that regard, in recital 492 of the decision at issue, that the projects covered by the infringement at issue were generally global offers comprising the cables themselves and their accessories, and did not adduce any concrete evidence to support the claim that the collective refusal to supply power cable accessories covered accessories for underground power cables with voltages from 110 kV and below 220 kV.</p> <p>99. In addition, one of the documents relied on by the appellants before the General Court, which is referred to in paragraph 151 of the judgment under appeal, expressly distinguishes those accessories for power cables with a minimum voltage of 220 kV. In paragraph 152 of the judgment under appeal, the General Court considered that that document seemed to concern a proposal made by two participants in the cartel to control fully the supply of electric cable accessories by the addition of a system of regular declarations by the cartel members on electric cable accessories and that that proposal had been limited to projects with voltages of 220 kV and above. The document in question describes the situation in relation to 110 kV power cable accessories as 'too complicated'.</p> <p>100. In those circumstances, that evidence is capable of raising doubts as to whether the collective refusal to supply power cable accessories covered accessories for underground power cables with voltages from 110 kV and below 220 kV. According to the case-law of the Court of Justice, having regard to the presumption of innocence which applies to procedures relating to infringements of the competition rules that may result in the imposition of fines or periodic penalty payments, the benefit of any doubt must be given to the undertaking to which the decision finding an infringement was addressed (see, that effect, judgment of 16 February 2017, Hansen & Rosenthal and H&R Wax Company Vertriebs v Commission, C-90/15 P, not published, EU:C:2017:123, paragraph 18 and the case-law cited)."</p>
C-39/18 P Judgment ECLI:EU:C:2019:584 Commission v Icap and Others	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62018CJ0039	Article 101 TFEU and Article 53 EEA	Annulled the EC	Confirms the GC	SUBSTANTIAL	<p>"22. The ground of appeal raises, in essence, the question of whether the General Court has disregarded the scope of the duty to state reasons, which is incumbent on the Commission, in holding, in essence, in paragraphs 287 to 296 of the judgment under appeal, that the Commission may not merely rely on the general assurance that the basic amounts imposed on the undertakings liable for the infringements of Article 101 TFEU, for having facilitated a cartel, reflect the gravity, duration and nature of their participation in the infringements as well as the deterrent effect of the fines, even though it is common ground that those amounts have been determined on the basis of a specific methodology, which was not disclosed to those undertakings.</p> <p>26. The 2006 Guidelines, accordingly, are based on taking into account the value of sales of the products concerned to which the infringement relates in determining the basic amount of fines to be imposed. Those Guidelines provide, in paragraphs 6 and 13, that the value of those sales, in combination with the duration of the infringement, are intended to 'reflect the economic importance of the infringement, as well as the relative weight of each undertaking in the infringement'.</p> <p>38. Contrary to the Commission's contention, the obligation to provide sufficient reasons for the relevance and weighting of the factors which it has taken into account in determining the alternative method it has favoured does not mean, having regard to the case-law set out in paragraph 31 of the present judgment, that it is required to provide figures relating to the method of calculating the fine or that it is required to explain in detail the internal calculations which it has carried out. In the present case, the Commission did not, moreover, claim that the enumeration of the five steps which comprises the alternative method adopted, and which it set out solely at the stage of the proceedings followed before the General Court, led it to reveal numerical data or internal calculations.</p> <p>40. However, taking account of the importance of the obligation to state reasons having regard to paragraph 34 of the present judgment, the General Court did not err in law in finding, in paragraph 295 of the judgment under appeal, that 'the reasoning of a contested act must be examined taking into account its context, the view cannot be taken that holding ... exploratory and informal discussions can relieve the Commission of its obligation to explain, in the contested decision, the methodology that it applied for the purposes of determining the amounts of the fines imposed'.</p> <p>41. Moreover, having regard to the absence of any explanation as to the relevance and weighting of the factors taken into account by the Commission in determining the method of calculating the basic amount of the fine imposed on Icap, it is right that the General Court held, in paragraph 296 of the judgment under appeal, that 'an explanation provided at the stage of the proceedings before the Court [could] not be taken into account for the purposes of assessing whether the Commission has complied with its obligation to state reasons.'"</p>

Table 2: Reversals of DG Comp Decisions Before the CJEU (1 Nov. 2014 to 30 Nov. 2024)

CJEU reference	URL to the CJEU judgment	EC decision legal basis	GC judgment	Outcome of CJEU judgment	Type of judgment	Comments
C-265/17 P Judgment ECLI:EU:C:2019:23 Commission v United Parcel Service	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62017CJ0265	Article 101 TFEU and Article 53 EEA	Annulled the EC	Confirms the GC	SUBSTANTIAL	<p>The Commission did not sufficiently state its reasons for its findings, given that the economic impact was not obvious.</p> <p>65. As regards the second complaint, set out in the first part of the third ground of appeal, it should be recalled that, for the reasons given in paragraphs 198 to 208 of the judgment under appeal, the General Court justified in law its assessment in paragraph 209 of that judgment that 'the Commission cannot claim that it was not required to communicate the final econometric analysis model to the applicant before adopting the [decision at issue]'. 66. In particular, the General Court held in paragraph 205 of the judgment under appeal that the amendments made by the Commission to the econometric model were not negligible. In addition, the General Court noted in paragraph 207 of the judgment under appeal that 'the Commission [had] relied on a discrete variable at the estimation stage and on a continuous variable at the prediction stage', and held in paragraph 208 of that judgment that 'although the use of a discrete variable had been discussed repeatedly during the administrative procedure, it [did] not appear from the file that that [had also been] the case as regards the use of different variables at the different stages of the econometric analysis'. 67. For those reasons, the General Court had justified in law its decision and implicitly, but necessarily, rejected the Commission's arguments that UPS had 'intuitively' been able to identify the amendments to the econometric model. Accordingly, the second complaint must be rejected as unfounded. 68. With regard to the third complaint in the second part of the second ground of appeal and in the third part of the fourth ground, it is sufficient to note that those arguments are based on the premise that the General Court erred in law when it held, in paragraph 210 of the judgment under appeal, that the infringement of the rights of the defence established would lead to annulment 'provided that it has been sufficiently demonstrated by the applicant not that, in the absence of that procedural irregularity, the [decision at issue] would have been different in content, but that there was even a slight chance that it would have been better able to defend itself'. For the reasons previously set out in paragraphs 53 to 58 above, that premise is incorrect. Accordingly, the third complaint must be dismissed as unfounded.</p>
C-240/22 P Judgment ECLI:EU:C:2024:915 Commission v Intel Corporation	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62022CJ0240	Article 102 TFEU and Article 54 EEA	Other (Annulled Art. 1, 2, and 3, otherwise confirmed)	Confirms the GC	SUBSTANTIAL	<p>180. Thus, as regards a practice consisting in the grant of loyalty rebates, in respect of which the undertaking in a dominant position submits, during the administrative procedure, on the basis of supporting evidence, that it was not capable of producing the alleged foreclosure effects, the Commission is required to analyse not only factors such as the extent of the dominant position of the undertaking in question, the share of market covered by the contested rebates and the conditions and arrangements for granting the rebates in question, their duration and their amount, but also the possible existence of a strategy aiming to exclude competitors that are at least as efficient as the dominant undertaking from the market (judgment on the appeal, paragraphs 138 and 139 and the case-law cited; see, to that effect, judgment of 19 January 2023, Unilever Italia Mkt. Operations, C-680/20, EU:C:2023:33, paragraphs 47 to 49). 181. The capability of such rebates to foreclose a competitor as efficient as the dominant undertaking, which competitor is supposed to meet the same costs as those borne by that undertaking, must be assessed, as a general rule, using the AEC test. Even though that test is merely one of the ways of assessing whether an undertaking in a dominant position has used means other than those that come within the scope of 'normal' competition, it seeks specifically to assess whether such an as-efficient competitor, considered in abstracto, is capable of reproducing the conduct of the undertaking in a dominant position and, consequently, whether that conduct must be considered to come within the scope of normal competition, that is to say, competition on the merits (see, to that effect, judgment of 12 May 2022, Servizio Elettrico Nazionale and Others, C-377/20, EU:C:2022:379, paragraphs 80 to 82 and the case-law cited). 337. It is in those circumstances that, as stated in paragraphs 80 to 82 of the present judgment, the General Court found, in paragraphs 524 to 527 of the judgment under appeal, that the errors which it had identified in the AEC test, the share of the market covered by the contested rebates and the duration of their application justified the annulment of Article 1(a) to (e) of the decision at issue. 340. In that regard, first, it is apparent from paragraphs 133 to 147 of the judgment under appeal that the analysis carried out in the decision at issue, intended to demonstrate that the contested rebates constitute an abuse irrespective of whether they were capable of foreclosing a competitor as efficient as Intel. Second, as regards the AEC test, the Commission does not maintain that that decision contains an additional examination taking into account a cost benchmark other than the average avoidable cost that would make it possible to find that capability, or that it established, in that decision, that the conduct complained of also included other components that would have been capable of giving rise, irrespective of the conclusions to be drawn from the AEC test, to an anticompetitive foreclosure effect that Intel pursued by exploiting the non-contestable share. 341. In those circumstances, the General Court did not err in law in holding, in paragraphs 518 and 519 of the judgment under appeal, that the sole reference, notwithstanding the conclusions that may be drawn from the AEC test, to the period during which Intel implemented the contested rebates and to their timing was not sufficient, in itself, to justify definitive conclusions as to the foreclosure effects thereby produced. That consideration appears all the more justified in the light of the General Court's findings concerning, first, the share of the market covered by the contested rebates and their duration, set out in paragraphs 492 to 500 and 508 to 515 of the judgment under appeal respectively and, second, the contested rebates as implemented with regard to NEC and to MSH, the specific aspects of the findings made in that regard not being disputed in the appeal. 342. Moreover, the Commission's argument that the General Court failed to take account of the fact that AMD is an 'efficient' competitor, as defined by the judgment on the appeal, because its products are high-performance, innovative and attractive, is also irrelevant.</p> <p>The Commission unjustifiably ruled a measure was state aid prior to ascertaining its effect on the internal market.</p>
C-40/23 P Judgment ECLI:EU:C:2024:492 Commission v Netherlands	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62024CJ00451	Article 107	Annulled the EC	Confirms the GC	SUBSTANTIAL	<p>35. It should, however, be observed that, although the term 'aid' is, in fact, used in Article 107(1) TFEU, in conjunction with the other indications set out in that provision, according to the usual meaning in everyday language, it is, by contrast, used in Article 107(3) TFEU to designate only State aid. It follows from Article 107(1) TFEU, read as a whole, that only measures which fulfil the conditions arising from paragraph 1 and which, consequently, constitute State aid, save as otherwise provided in the Treaty, incompatible with the internal market. Therefore, Article 107(3) TFEU, which, by way of exception to that provision, lists the measures which may be considered to be compatible with the internal market, can concern only State aid. 42. It should be added, first, that the Court of Justice has, in other judgments, stated that 'the Commission is required to initiate the formal investigation procedure if, following the preliminary examination referred to in Article 4 of Regulation 2015/1589, it... entertains doubts as to the actual classification as "aid" within the meaning of Article 107(1) TFEU of [the] measure' (judgment of 16 March 2021, Commission v Poland, C-562/19 P, EU:C:2021:201, paragraph 50 and the case-law cited; see also, to that effect, judgment of 6 October 2021, Scandlines Danmark and Scandlines Deutschland v Commission, C-174/19 P and C-175/19 P, EU:C:2021:801, paragraphs 65 to 67 and the case-law cited). 43. Furthermore, it held that the question whether a measure must be categorised as State aid arises upstream of the question which involves examining, where necessary, if incompatible aid, within the meaning of Article 107 TFEU, is nevertheless necessary to the performance of the tasks assigned to the beneficiary of the measure at issue, under Article 106(2) TFEU (judgment of 24 November 2020, Viasat Broadcasting UK, C-445/19, EU:C:2020:952, paragraph 35). 49. Thus, the Commission cannot abandon such an obligation on the basis of considerations relating to how readily such a classification or examination of compatibility may be carried out in a particular case.</p> <p>The Commission established too broad a link between taxation and selective advantage.</p>
C-451/21 P Judgment ECLI:EU:C:2024:948 Luxembourg v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62021CJ0451	Article 107 TFEU	Confirmed the EC	Annuls the GC	SUBSTANTIAL	<p>25. On 20 June 2018, the Commission adopted the decision at issue, by which it found, in essence, that the Grand Duchy of Luxembourg had granted, through its tax authorities, in breach of Articles 107(1) and 108(3) TFEU, a selective advantage to the Engie group, regarded as a single economic unit. 26. Without calling into question the lawfulness under Luxembourg tax law of the entire financing structure established by the Engie group in order to transfer LNG Trading's business, on the one hand, and CEF's business, on the other, the Commission disputed the effects of that structure on that group's total tax liability, on the ground, in essence, that almost all of the profit made by the Engie subsidiaries in Luxembourg had not actually been taxed, in particular as a result of the exemption provided for in Article 166 of the LIR. 120. It follows that, when determining the reference framework for the purpose of applying Article 107(1) TFEU to tax measures, the Commission is in principle required to accept the interpretation of the relevant provisions of national law given by the Member State concerned in the exchange of arguments referred to in paragraph 111 of this judgment, provided that that interpretation is compatible with the wording of those provisions. 123. In the present case, as regards the tax treatment of financial instruments such as ZORAs, the General Court stated, first, in paragraph 292 of the judgment under appeal, that Article 166 of the LIR '[did] not make the grant of [the] exemption of income from participations] at the level of a parent company formally dependent on the prior taxation of distributed profits at the level of its subsidiary', following the Commission, which, in recital 218 of the decision at issue, had found that there was 'no express link between Article 166 [of the] LIR and Article 164(1) and (2) [of the] LIR' and, second, in paragraph 300 of the judgment under appeal, that 'the ZORA accretions are not, formally speaking, profit distributions'. 124. The General Court thus departed from a literal interpretation of those provisions. Confirming the Commission's approach, the General Court first considered that the exemption of a holding company's income from participations could be contemplated under Luxembourg law only if the income distributed by its subsidiary had been taxed beforehand. 155. In view of the nature of an anti-abuse provision such as that referred to in paragraph 153 of this judgment, the Commission could not conclude that the non-application of that provision by the tax authorities in order to refuse the tax treatment sought by a taxpayer in a tax ruling request led to the grant of a selective advantage unless that non-application departs from the national case-law or administrative practice relating to that provision. If that were not the case, the Commission would itself be able to define what does or does not constitute a correct application of such a provision, which would exceed the limits of the powers conferred on it by the Treaties in the field of State aid review and would be incompatible with the fiscal autonomy of the Member States referred to in the preceding paragraph. 186. It follows from all those considerations that the first and second pleas in law in Case T-516/18 and the second and third pleas in law in Case T-525/18, alleging, in essence, errors of assessment and of law in the identification of a selective advantage, must be upheld. Consequently, the decision at issue must be annulled, without it being necessary to examine the other pleas of the actions for annulment.</p>

Table 2: Reversals of DG Comp Decisions Before the CJEU (1 Nov. 2014 to 30 Nov. 2024)

CJEU reference	URL to the CJEU judgment	EC decision legal basis	GC judgment	Outcome of CJEU judgment	Type of judgment	Comments
C-331/20 P Judgment ECLI:EU:C:2022:886 Volotea v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62020CJ0331	Article 107 TFEU	Confirmed the EC	Annuls the GC	SUBSTANTIAL	<p>The Commission applied an overbroad definition of "state aid."</p> <p>"102. It must be borne in mind, in the first place, that it follows from the settled case-law of the Court, first, that in order for a measure to be classified as 'State aid' within the meaning of Article 107(1) TFEU, all the conditions set out in that provision must be fulfilled (judgments of 21 March 1990, Belgium v Commission, C-142/87, EU:C:1990:125, paragraph 25, and of 11 November 2021, Autostrada Wielkopolska v Commission and Poland, C-933/19 P, EU:C:2021:905, paragraph 103).</p> <p>103. They include, inter alia, the condition that the State measure at issue in a given case must confer a selective advantage on the recipient undertaking or undertakings (judgments of 24 July 2003, Altmark Trans and Regierungspräsidium Magdeburg, C-280/00, EU:C:2003:415, paragraph 75, and of 11 November 2021, Autostrada Wielkopolska v Commission and Poland, C-933/19 P, EU:C:2021:905, paragraph 103).</p> <p>114. In particular, the Commission must assess whether, at that time, the transaction by which the advantage was conferred could be considered rational from an economic, commercial and financial perspective, taking account of its prospects for profitability over the short or longer term and of the other commercial or economic interests which it involved (see, to that effect, judgments of 10 July 1986, Belgium v Commission, C-244/84, EU:C:1986:302, paragraphs 14 and 15; of 21 March 1991, Italy v Commission, C-303/88, EU:C:1991:136, paragraphs 21 and 22; of 3 April 2014, Commission v Netherlands and ING Groep, C-224/12 P, EU:C:2014:213, paragraph 36; and of 10 December 2020, Comune di Milano v Commission, C-160/19 P, EU:C:2020:1012, paragraph 107).</p> <p>154. However, as is apparent from the recitals of the decision at issue summarised in paragraphs 145 to 148 above, the Commission, in the first place, clearly rejected – on grounds based incorrectly on the public policy objectives pursued by the Autonomous Region, the private character of the airport operators through which the region implemented the measures at issue, and the form that those measures took – both the applicability of the market economy operator principle and the 'relevance' and 'possibility' of applying that principle to the 'relationship' between the Autonomous Region and the airlines and the 'individual financial relationship' between those airlines and the airport operators, in particular for the purpose of assessing the rationality and the expected profitability of the contracts concluded for putting those measures into effect.</p> <p>160. Since proof of the existence of an advantage, for the purpose of Article 107(1) TFEU, is one of the cumulative conditions that are necessary for a particular measure to be classified as 'State aid' within the meaning of that provision, as observed in paragraphs 102, 103 and 138 above, and since the pleas referred to in the preceding paragraph of this judgment must be upheld, it is necessary to uphold the actions brought by Volotea et al, and consequently, to annul the contested decision in so far as it concerns those two airlines, in accordance with the forms of order which each of them sought at first instance, as set out in paragraphs 35 and 38 above, without there being any need to examine the other pleas in law put forward in support of those actions."</p> <p>The Commission incorrectly classified a taxation scheme as "state aid" without consideration for the normal tax regime.</p> <p>"7. By decision of 12 March 2015, the Commission initiated the formal investigation procedure provided for in Article 108(2) TFEU, taking the view that the progressive nature of the tax measure at issue and the mechanism for the partial deductibility of losses carried forward gave rise to State aid. In that decision, the Commission considered that the progressivity of the rates differentiated between undertakings with high advertisement turnover (large undertakings) and undertakings with lower advertisement turnover (small undertakings). According to the Commission, the tax measure at issue gave rise to a selective advantage in favour of the latter. The Commission also considered that the mechanism for the partial deductibility of losses carried forward entailed a selective advantage constituting State aid.</p> <p>37. In that context, in order to classify a national tax measure as 'selective', the Commission must begin by identifying the reference system, or 'normal' tax system applicable in the Member State concerned, and thereafter demonstrate that the tax measure at issue is a derogation from that reference system, in so far as it differentiates between operators who, in the light of the objective pursued by that system, are in a comparable factual and legal situation (see, to that effect, judgment of 19 December 2018, A-Brauerei, C-374/17, EU:C:2018:1024, paragraph 36 and the case-law cited).</p> <p>38. The concept of 'State aid' does not, however, cover measures that differentiate between undertakings which, in the light of the objective pursued by the national legislation in question, are in a comparable factual and legal situation, and are, therefore, a priori selective, where the Member State concerned is able to demonstrate that that differentiation is justified in that it flows from the nature or general structure of the system of which the measures form part (see, to that effect, inter alia, judgments of 29 April 2004, Netherlands v Commission, C-159/01, EU:C:2004:246, paragraphs 42 and 43; of 29 March 2012, 3M Italia, C-417/10, EU:C:2012:184, paragraph 40, and of 19 December 2018, A-Brauerei, C-374/17, EU:C:2018:1024, paragraph 44).</p> <p>46. In that regard, it must be stated that EU law on State aid does not preclude, in principle, Member States from deciding to opt for progressive tax rates intended to take account of the ability to pay of taxable persons. The fact that recourse to progressive taxation is, in practice, more common in the taxation of natural persons does not mean that they are prohibited from using it in order also to take account of the ability to pay of legal persons, in particular undertakings.</p> <p>50. In the present case, as is clear from paragraphs 3 to 6 and 9 of the present judgment, the Hungarian legislature, by the Law on advertisement tax, established the tax measure at issue, consisting of a special tax, applied progressively by bands, based on turnover derived from the broadcasting or publication of advertisements in Hungary, applicable to all undertakings. The scale of that charge, which, contrary to the Commission's assertion, is a direct tax, was amended by the 2015 Law, but its characteristics remained unchanged. The Commission has not established that those characteristics, adopted by the Hungarian legislature in the exercise of its discretion in the context of its fiscal autonomy, were designed in a manifestly discriminatory manner, with the aim of circumventing the requirements of EU law on State aid. In those circumstances, the progressivity of the rates of the tax measure at issue had to be regarded as inherent in the reference system or the 'normal' tax regime in the light of which the existence, in the present case, of a selective advantage had to be assessed."</p> <p>The Commission applied a definition of "state aid" that did not match the economic reality of the policy in question.</p> <p>"53. The distinction made in that provision between 'aid granted by a Member State' and aid granted 'through State resources' does not signify that all advantages granted by a State, whether financed through State resources or not, constitute aid but is intended merely to bring within that definition both advantages which are granted directly by the State and those granted by a public or private body designated or established by the State (judgments of 13 March 2001, PreussenElektra, C-379/98, EU:C:2001:160, paragraph 58; and of 30 May 2013, Doux Elevage and Coopérative agricole UKL-ARREE, C-677/11, EU:C:2013:348, paragraph 26).</p> <p>84. The Court of Justice took care to point out, on the one hand, that the national legislation at issue in the case giving rise to that judgment had established a principle that the obligation to purchase would be covered in full by the French State, requiring the French State to discharge past debts and to cover in full the additional costs imposed on undertakings should the sum of the charges collected from final consumers of electricity be insufficient to cover those additional costs (judgment of 19 December 2013, Association Vent De Colère! and Others, C-262/12, EU:C:2013:851, paragraph 26). In doing so, the Court of Justice found that there was a link between the advantage in question and a reduction, at the very least potential, in the State budget.</p> <p>85. In paragraphs 28 to 33 of the judgment of 19 December 2013, Association Vent De Colère! and Others (C-262/12, EU:C:2013:851), the Court of Justice held, on the other hand, that the sums intended to offset the additional costs arising from the obligation to purchase imposed on the undertakings were entrusted to the Caisse des dépôts et consignations (a French public long-term investment group), that is to say a public law entity appointed by the French State to provide administrative, financial and accounting management services for the Commission de régulation de l'énergie (French energy regulation authority), the independent administrative authority responsible for ensuring the proper functioning of the market for electricity and gas in France, with the result that those sums must be regarded as remaining under public control.</p> <p>86. It is therefore necessary to conclude that nor did the other factors referred to by the General Court in paragraph 127 of the judgment permit the conclusion that the funds generated by the EEG surcharge constituted State resources."</p> <p>The Commission applied a definition of "state aid" that did not match the economic reality of the policy in question.</p> <p>"82. The concept of 'State aid' does not, however, cover measures which introduce a differentiation between undertakings which, in the light of the objective pursued by the legal regime in question, are in a comparable factual and legal situation and are therefore a priori selective, where the Member State concerned manages, at a third stage, to demonstrate that that differentiation is justified since it results from the nature or general scheme of the system of which they are part (see, to that effect, judgment of 6 September 2006, Portugal v Commission, C-88/03, EU:C:2006:511, paragraph 52; see, also, judgment of 21 December 2016, Commission v World Duty Free Group and Others, C-20/15 P and C-21/15 P, EU:C:2016:981, paragraph 58 and the case-law cited).</p> <p>102. It follows from all of the foregoing that the first part of the single ground of appeal of the Federal Republic of Germany, in so far as it complains that the General Court misinterpreted Article 107(1) TFEU, as interpreted by the Court of Justice, by attaching decisive importance to the regulatory technique used in order to determine the relevant reference framework for the purposes of assessing the condition relating to the selectivity of the advantage, is well founded."</p> <p>The General Court – and the Commission – erred in its legal qualification of the facts by placing excessive importance on the formal regulatory technique used to determine the reference framework for assessing the selectivity of the measure (i.e., concerned the possibility of carrying forward losses when a company's shares are acquired), which affected the entire analysis.</p> <p>"78. S'agissant du fond, il convient d'examiner en premier lieu le deuxième argument avancé par la République fédérale d'Allemagne en vue de démontrer l'erreur de qualification juridique des faits commise par le Tribunal, rappelé au point 63 du présent arrêt et également formulé par HBH, selon lequel, en substance, il a méconnu l'article 107, paragraphe 1, TFEU tel qu'interprété par la Cour, en accordant, à l'instar de la Commission dans la décision litigieuse, une importance décisive au formalisme afin de juger que le cadre de référence pertinents pour l'appréciation du caractère sélectif de la mesure litigieuse était constitué par la seule règle de la mise en non-valeur des pertes.</p> <p>104. Il résulte de l'ensemble de ce qui précède que la première branche du moyen unique de la République fédérale d'Allemagne, en ce qu'elle fait grief au Tribunal d'avoir méconnu l'article 107, paragraphe 1, TFEU, tel qu'interprété par la Cour, en accordant une importance décisive à la technique réglementaire utilisée en vue de déterminer le cadre de référence pertinent aux fins de l'appréciation de la condition relative à la sélectivité de l'avantage, est fondée.</p> <p>106. Or, ainsi qu'il découle de la jurisprudence rappelée aux points 80 et 83 à 86 du présent arrêt, une erreur dans la détermination du cadre de référence à l'aune duquel le caractère sélectif d'une mesure doit être apprécié vicié nécessairement l'ensemble de l'analyse de la condition relative à la sélectivité. Dans ces conditions, il y a lieu d'accueillir le pourvoi et d'annuler l'arrêt attaqué dans la mesure où il a rejeté le recours de première instance comme étant non fondé, sans qu'il soit nécessaire d'examiner les autres arguments de cette première branche, ni les deuxième et troisième branches du moyen unique du pourvoi."</p>
C-596/19 P Judgment ECLI:EU:C:2021:202 Commission v Hungary	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0536	Article 107 TFEU	Annulled the EC	Confirms the GC	SUBSTANTIAL	<p>The Commission applied a definition of "state aid" that did not match the economic reality of the policy in question.</p> <p>"53. The distinction made in that provision between 'aid granted by a Member State' and aid granted 'through State resources' does not signify that all advantages granted by a State, whether financed through State resources or not, constitute aid but is intended merely to bring within that definition both advantages which are granted directly by the State and those granted by a public or private body designated or established by the State (judgments of 13 March 2001, PreussenElektra, C-379/98, EU:C:2001:160, paragraph 58; and of 30 May 2013, Doux Elevage and Coopérative agricole UKL-ARREE, C-677/11, EU:C:2013:348, paragraph 26).</p> <p>84. 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It follows from all of the foregoing that the first part of the single ground of appeal of the Federal Republic of Germany, in so far as it complains that the General Court misinterpreted Article 107(1) TFEU, as interpreted by the Court of Justice, by attaching decisive importance to the regulatory technique used in order to determine the relevant reference framework for the purposes of assessing the condition relating to the selectivity of the advantage, is well founded."</p> <p>The General Court – and the Commission – erred in its legal qualification of the facts by placing excessive importance on the formal regulatory technique used to determine the reference framework for assessing the selectivity of the measure (i.e., concerned the possibility of carrying forward losses when a company's shares are acquired), which affected the entire analysis.</p> <p>"78. S'agissant du fond, il convient d'examiner en premier lieu le deuxième argument avancé par la République fédérale d'Allemagne en vue de démontrer l'erreur de qualification juridique des faits commise par le Tribunal, rappelé au point 63 du présent arrêt et également formulé par HBH, selon lequel, en substance, il a méconnu l'article 107, paragraphe 1, TFEU tel qu'interprété par la Cour, en accordant, à l'instar de la Commission dans la décision litigieuse, une importance décisive au formalisme afin de juger que le cadre de référence pertinents pour l'appréciation du caractère sélectif de la mesure litigieuse était constitué par la seule règle de la mise en non-valeur des pertes.</p> <p>104. Il résulte de l'ensemble de ce qui précède que la première branche du moyen unique de la République fédérale d'Allemagne, en ce qu'elle fait grief au Tribunal d'avoir méconnu l'article 107, paragraphe 1, TFEU, tel qu'interprété par la Cour, en accordant une importance décisive à la technique réglementaire utilisée en vue de déterminer le cadre de référence pertinent aux fins de l'appréciation de la condition relative à la sélectivité de l'avantage, est fondée.</p> <p>106. Or, ainsi qu'il découle de la jurisprudence rappelée aux points 80 et 83 à 86 du présent arrêt, une erreur dans la détermination du cadre de référence à l'aune duquel le caractère sélectif d'une mesure doit être apprécié vicié nécessairement l'ensemble de l'analyse de la condition relative à la sélectivité. Dans ces conditions, il y a lieu d'accueillir le pourvoi et d'annuler l'arrêt attaqué dans la mesure où il a rejeté le recours de première instance comme étant non fondé, sans qu'il soit nécessaire d'examiner les autres arguments de cette première branche, ni les deuxième et troisième branches du moyen unique du pourvoi."</p>
C-405/16 P Judgment ECLI:EU:C:2019:268 Germany v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62016CJ0405	Article 107 TFEU	Confirmed the EC	Annuls the GC	SUBSTANTIAL	<p>The Commission applied a definition of "state aid" that did not match the economic reality of the policy in question.</p> <p>"82. The concept of 'State aid' does not, however, cover measures which introduce a differentiation between undertakings which, in the light of the objective pursued by the legal regime in question, are in a comparable factual and legal situation and are therefore a priori selective, where the Member State concerned manages, at a third stage, to demonstrate that that differentiation is justified since it results from the nature or general scheme of the system of which they are part (see, to that effect, judgment of 6 September 2006, Portugal v Commission, C-88/03, EU:C:2006:511, paragraph 52; see, also, judgment of 21 December 2016, Commission v World Duty Free Group and Others, C-20/15 P and C-21/15 P, EU:C:2016:981, paragraph 58 and the case-law cited).</p> <p>102. It follows from all of the foregoing that the first part of the single ground of appeal of the Federal Republic of Germany, in so far as it complains that the General Court misinterpreted Article 107(1) TFEU, as interpreted by the Court of Justice, by attaching decisive importance to the regulatory technique used in order to determine the relevant reference framework for the purposes of assessing the condition relating to the selectivity of the advantage, is well founded."</p> <p>The General Court – and the Commission – erred in its legal qualification of the facts by placing excessive importance on the formal regulatory technique used to determine the reference framework for assessing the selectivity of the measure (i.e., concerned the possibility of carrying forward losses when a company's shares are acquired), which affected the entire analysis.</p> <p>"78. S'agissant du fond, il convient d'examiner en premier lieu le deuxième argument avancé par la République fédérale d'Allemagne en vue de démontrer l'erreur de qualification juridique des faits commise par le Tribunal, rappelé au point 63 du présent arrêt et également formulé par HBH, selon lequel, en substance, il a méconnu l'article 107, paragraphe 1, TFEU tel qu'interprété par la Cour, en accordant, à l'instar de la Commission dans la décision litigieuse, une importance décisive au formalisme afin de juger que le cadre de référence pertinents pour l'appréciation du caractère sélectif de la mesure litigieuse était constitué par la seule règle de la mise en non-valeur des pertes.</p> <p>104. Il résulte de l'ensemble de ce qui précède que la première branche du moyen unique de la République fédérale d'Allemagne, en ce qu'elle fait grief au Tribunal d'avoir méconnu l'article 107, paragraphe 1, TFEU, tel qu'interprété par la Cour, en accordant une importance décisive à la technique réglementaire utilisée en vue de déterminer le cadre de référence pertinent aux fins de l'appréciation de la condition relative à la sélectivité de l'avantage, est fondée.</p> <p>106. Or, ainsi qu'il découle de la jurisprudence rappelée aux points 80 et 83 à 86 du présent arrêt, une erreur dans la détermination du cadre de référence à l'aune duquel le caractère sélectif d'une mesure doit être apprécié vicié nécessairement l'ensemble de l'analyse de la condition relative à la sélectivité. Dans ces conditions, il y a lieu d'accueillir le pourvoi et d'annuler l'arrêt attaqué dans la mesure où il a rejeté le recours de première instance comme étant non fondé, sans qu'il soit nécessaire d'examiner les autres arguments de cette première branche, ni les deuxième et troisième branches du moyen unique du pourvoi."</p>
C-209/16 P Judgment ECLI:EU:C:2018:507 Germany v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62016CJ0209	Article 107 TFEU	Confirmed the EC	Other (Sets aside points 2 and 3 of the GC decision)	SUBSTANTIAL	<p>The General Court – and the Commission – erred in its legal qualification of the facts by placing excessive importance on the formal regulatory technique used to determine the reference framework for assessing the selectivity of the measure (i.e., concerned the possibility of carrying forward losses when a company's shares are acquired), which affected the entire analysis.</p> <p>"78. S'agissant du fond, il convient d'examiner en premier lieu le deuxième argument avancé par la République fédérale d'Allemagne en vue de démontrer l'erreur de qualification juridique des faits commise par le Tribunal, rappelé au point 63 du présent arrêt et également formulé par HBH, selon lequel, en substance, il a méconnu l'article 107, paragraphe 1, TFEU tel qu'interprété par la Cour, en accordant, à l'instar de la Commission dans la décision litigieuse, une importance décisive au formalisme afin de juger que le cadre de référence pertinents pour l'appréciation du caractère sélectif de la mesure litigieuse était constitué par la seule règle de la mise en non-valeur des pertes.</p> <p>104. Il résulte de l'ensemble de ce qui précède que la première branche du moyen unique de la République fédérale d'Allemagne, en ce qu'elle fait grief au Tribunal d'avoir méconnu l'article 107, paragraphe 1, TFEU, tel qu'interprété par la Cour, en accordant une importance décisive à la technique réglementaire utilisée en vue de déterminer le cadre de référence pertinent aux fins de l'appréciation de la condition relative à la sélectivité de l'avantage, est fondée.</p> <p>106. Or, ainsi qu'il découle de la jurisprudence rappelée aux points 80 et 83 à 86 du présent arrêt, une erreur dans la détermination du cadre de référence à l'aune duquel le caractère sélectif d'une mesure doit être apprécié vicié nécessairement l'ensemble de l'analyse de la condition relative à la sélectivité. Dans ces conditions, il y a lieu d'accueillir le pourvoi et d'annuler l'arrêt attaqué dans la mesure où il a rejeté le recours de première instance comme étant non fondé, sans qu'il soit nécessaire d'examiner les autres arguments de cette première branche, ni les deuxième et troisième branches du moyen unique du pourvoi."</p>
C-208/16 P Judgment ECLI:EU:C:2018:506 Germany v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62016CJ0208	Article 107 TFEU	Confirmed the EC	Other (Sets aside points 2 and 3 of the GC decision)	SUBSTANTIAL	<p>The General Court – and the Commission – erred in its legal qualification of the facts by placing excessive importance on the formal regulatory technique used to determine the reference framework for assessing the selectivity of the measure (i.e., concerned the possibility of carrying forward losses when a company's shares are acquired), which affected the entire analysis.</p> <p>"78. S'agissant du fond, il convient d'examiner en premier lieu le deuxième argument avancé par la République fédérale d'Allemagne en vue de démontrer l'erreur de qualification juridique des faits commise par le Tribunal, rappelé au point 63 du présent arrêt et également formulé par HBH, selon lequel, en substance, il a méconnu l'article 107, paragraphe 1, TFEU tel qu'interprété par la Cour, en accordant, à l'instar de la Commission dans la décision litigieuse, une importance décisive au formalisme afin de juger que le cadre de référence pertinents pour l'appréciation du caractère sélectif de la mesure litigieuse était constitué par la seule règle de la mise en non-valeur des pertes.</p> <p>104. Il résulte de l'ensemble de ce qui précède que la première branche du moyen unique de la République fédérale d'Allemagne, en ce qu'elle fait grief au Tribunal d'avoir méconnu l'article 107, paragraphe 1, TFEU, tel qu'interprété par la Cour, en accordant une importance décisive à la technique réglementaire utilisée en vue de déterminer le cadre de référence pertinent aux fins de l'appréciation de la condition relative à la sélectivité de l'avantage, est fondée.</p> <p>106. Or, ainsi qu'il découle de la jurisprudence rappelée aux points 80 et 83 à 86 du présent arrêt, une erreur dans la détermination du cadre de référence à l'aune duquel le caractère sélectif d'une mesure doit être apprécié vicié nécessairement l'ensemble de l'analyse de la condition relative à la sélectivité. Dans ces conditions, il y a lieu d'accueillir le pourvoi et d'annuler l'arrêt attaqué dans la mesure où il a rejeté le recours de première instance comme étant non fondé, sans qu'il soit nécessaire d'examiner les autres arguments de cette première branche, ni les deuxième et troisième branches du moyen unique du pourvoi."</p>

Table 2: Reversals of DG Comp Decisions Before the CJEU (1 Nov. 2014 to 30 Nov. 2024)

CJEU reference	URL to the CJEU judgment	EC decision legal basis	GC judgment	Outcome of CJEU judgment	Type of judgment	Comments
C-203/16 P Judgment ECLI:EU:C:2018.505 Andres (faillite Heitkamp BauHolding) v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62016CJ0203	Article 107 TFEU	Confirmed the EC	Other (Sets aside points 2 and 3 of the GC decision)	SUBSTANTIAL	<p>The Commission and the GC incorrectly classified a taxation scheme as 'state aid' without consideration for the state's normal tax regime.</p> <p>"61. By its second ground of appeal, HBH submits, first, that the General Court infringed Article 107 TFEU in that, in confirming the Commission's position that the rule governing the forfeiture of losses constitutes the relevant reference framework in the present case, it established that reference framework incorrectly. In paragraphs 103 and 106 of the judgment under appeal, the General Court, first of all, correctly identified the general tax scheme, namely the loss carry-forward rule. However, it is the rule governing the forfeiture of losses provided for in Paragraph 8c(1) of the KStG and, therefore, the exception to the general scheme, that it accepted as constituting the applicable common or normal tax regime for the purposes of assessing the condition relating to selectivity. It incorrectly failed to take account of the loss carry-forward rule. By classifying an exception to the general tax system as a 'reference framework', the General Court erred in law or, at the very least, distorted the evidence submitted to it or national law.</p> <p>64. Secondly, the General Court infringed Article 107 TFEU in its review of the a priori selective nature of the measure at issue. On the one hand, it erred in law in holding that the legal and factual situation of the undertakings requiring restructuring and that of the healthy companies were comparable. In particular, the objective, pursued by all provisions relating to taxation, of generating tax revenue does not suffice to give rise to the comparability of the situations of the operators concerned.</p> <p>75. In the present case, however, the Commission's approach was based solely on the regulatory technique; the General Court, in failing to call it into question even though it is contrary to the case-law of the Court, erred in law. Thus, in the judgment under appeal, the General Court correctly recorded the content and scope of the relevant tax provisions, but gave them an incorrect legal characterisation.</p> <p>106. It follows from all of the foregoing that the first part of HBH's second ground of appeal is well founded, without it being necessary to examine the second part of the argument put forward to support it. It should also be noted that it is on the basis of its flawed legal assessment – that the Commission did not err in holding that the relevant reference framework in the present case for the purposes of assessing the selectivity of the measure at issue was made up only of the rule governing the forfeiture of losses – that the General Court analysed the submissions made to it by HBH, seeking to show, on the one hand, the lack of a priori selectivity of the measure at issue and, on the other hand, the justification of the measure by the nature and overall structure of the tax system."</p>
C-486/15 P Judgment ECLI:EU:C:2016.912 Commission v France and Orange	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62015CJ0486	Article 107 TFEU	Annulled the EC	Confirms the GC	SUBSTANTIAL	<p>The Commission applied a definition of "state aid" that did not reflect the economic reality of the policy in question and held an unnecessarily limited view of relevant factors.</p> <p>"92. In paragraphs 235 to 248 of the judgment under appeal, the General Court did just that: conducted a review of the Commission's assessment of the evidence on which the Commission relied to find that it was appropriate to apply the prudent private investor criterion in July 2002 and not December 2002. It found in that regard that there had been a selective taking into account of the available evidence and that that evidence was not such as to substantiate the conclusions drawn therefrom by the Commission. It therefore held that the Commission's assessment was vitiated by a manifest error.</p> <p>129. By the arguments it puts forward under the seven parts of the second ground of appeal, the Commission seeks, in essence, to establish that the General Court erred in law as to the determination of the moment in which it had to place itself to assess the prudent private investor criterion. In the Commission's submission, that moment was in July 2002 and not, as the General Court incorrectly held, December 2002.</p> <p>130. In the first place, in so far as the Commission argues, under the second to fifth parts, that the advantage identified by Bouygues extends to the declarations from July 2002, it should be noted that that argument comes up against the Court of Justice's own interpretation of the decision at issue, set out in paragraphs 70 to 75 and 126 to 129 of Bouygues.</p> <p>131. In those paragraphs, the Court of Justice held that the advantage identified by that decision arose solely from the announcement of 4 December 2002, together with the shareholder loan offer. Conversely, it is implicitly but necessarily apparent from paragraphs 132, 134, 136 and 139 of that judgment that the Court of Justice did not intend to extend that advantage to the declarations from July 2002, as they only form part of the context of the aid measure thus identified.</p> <p>132. Accordingly, as the Commission's argument is based on an incorrect reading of Bouygues and does not reflect the very content of the decision at issue, it must be rejected as ineffective ab initio (see, to that effect, Bouygues, paragraph 79).</p> <p>143. In those circumstances, as rightly held by the General Court in paragraph 230 of the judgment under appeal, deciding in advance in July 2002 the time when the prudent private investor criterion fell to be assessed would have necessarily excluded from that assessment relevant factors that occurred between July 2002 and December 2002.</p> <p>144. It is clear that such an outcome would have been contrary to the Court of Justice's settled case-law, referred to in paragraph 91 above, according to which it is for the Commission to take account of all relevant factors for its assessment."</p>
C-524/14 P Judgment ECLI:EU:C:2016.971 Commission v Hansestadt Lübeck	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62014CJ0524	Article 107 TFEU	Annulled the EC	Confirms the GC	SUBSTANTIAL	<p>The Commission incorrectly classified an aid scheme as "selective," and incorrectly attributed it to the state.</p> <p>"18. The General Court inferred therefrom, in paragraph 32 of the judgment under appeal, that FL was vested, in its capacity as the operator of Lübeck Airport, with a power of its own in respect of the setting of the airport charges applicable to that airport and was not acting solely as an extension of the State by exercising powers conferred solely upon the latter. Thus, according to the General Court, the power to adopt the 2006 schedule lay with FL and not the State authorities, notwithstanding the requirement that the supervisory authority approve that schedule.</p> <p>31. In the present instance, in the light of that case-law it is apparent that, as the General Court stated, after the privatisation of Lübeck Airport the City of Lübeck remained at least exposed to the risk that a national court might order the recovery of any aid granted when FL owned the airport. The General Court was therefore correct in holding that, in the absence of a final decision of the Commission closing the formal investigation procedure, the effects of the decision at issue endured, so that the City of Lübeck retained an interest in bringing proceedings seeking the annulment of that decision.</p> <p>46. In the light of those considerations, the General Court held, in paragraphs 54 and 55 of the judgment under appeal, that the mere fact that the 2006 schedule applied only to airlines using Lübeck Airport was not relevant for the purpose of finding that that schedule was selective and that, since it was not disputed that all the airlines could benefit from the pricing provisions of that schedule, 'the Commission was wrong, in the light of the statement of reasons contained in the [decision at issue], to have found that the 2006 schedule was selective'.</p> <p>47. It is to be noted that, contrary to the Commission's submissions, it certainly does not follow from the case-law of the Court of Justice that a measure by which a public undertaking lays down the conditions for the use of its goods or services is always, and therefore by its very nature, a selective measure for the purposes of Article 107(1) TFEU. The judgments to which it refers, in particular those mentioned in paragraph 35 of the present judgment, do not set out a general rule of that kind.</p> <p>48. It is, on the contrary, settled case-law that Article 107(1) TFEU does not distinguish between measures of State intervention by reference to their causes or their aims but defines them in relation to their effects, and thus independently of the techniques used (judgment of 15 November 2011, Commission and Spain v Government of Gibraltar and United Kingdom, C-106/09 P and C-107/09 P, EU:C:2011:732, paragraph 87 and the case-law cited).</p> <p>49. Accordingly, whilst it cannot be ruled out that a measure by which a public undertaking lays down the conditions for the use of its goods or services is selective despite applying to all the undertakings using those goods or services, it is necessary, in order to determine whether that is the case, to have regard not to the nature of that measure but to its effects, by examining whether the advantage which it is supposed to procure in fact benefits only some of those undertakings as opposed to others, although, in the light of the objective pursued by the regime concerned, all of the undertakings are in a comparable factual and legal situation."</p>
C-15/14 P Judgment ECLI:EU:C:2015.362 Commission v MOL	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62014CJ0015	Article 107 TFEU	Annulled the EC	Confirms the GC	SUBSTANTIAL	<p>The Commission incorrectly argued that a fee scheme could be considered "selective" in its application.</p> <p>"25. In paragraphs 64 and 65 of the judgment under appeal, the General Court also held, that where a Member State concludes with an economic operator an agreement which does not involve any State aid element for the purposes of Article 107 TFEU, the fact that, subsequently, conditions external to such an agreement change in such a way as to confer an advantage on that operator is not a sufficient basis on which to conclude that, together, the agreement and the subsequent modification of the conditions external to that agreement may be regarded as constituting State aid.</p> <p>43. In support of its appeal, the Commission relies on a single ground, alleging an error of law, in that the General Court misinterpreted and misapplied the condition of selectivity laid down in Article 107(1) TFEU.</p> <p>45. Under Article 107(1) TFEU, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the provision of certain goods is to be incompatible with the common market, in so far as it affects trade between Member States, save as otherwise provided for in the Treaties.</p> <p>46. According to settled case-law of the Court, for a measure to be categorised as aid within the meaning of Article 107(1) TFEU, all the conditions set out in that provision must be fulfilled (see judgment in Commission v Deutsche Post, C-399/08 P, EU:C:2010:481, paragraph 38 and the case-law cited).</p> <p>47. It is thus well established that, for a national measure to be categorised as State aid within the meaning of Article 107(1) TFEU, there must, first, be an intervention by the State or through State resources; second, the intervention must be liable to affect trade between Member States; third, it must confer an advantage on the recipient and, fourth, it must distort or threaten to distort competition (see judgment in Commission v Deutsche Post, C-399/08 P, EU:C:2010:481, paragraph 39 and the case-law cited).</p> <p>48. In the present case, it is only the interpretation and application of the third condition, that the measure at issue must confer a selective advantage on the recipient, that are called into question.</p> <p>102. Since none of the arguments raised by the Commission in support of its single ground of appeal has been upheld, the appeal must be rejected in its entirety."</p>

Table 2: Reversals of DG Comp Decisions Before the CJEU (1 Nov. 2014 to 30 Nov. 2024)

CJEU reference	URL to the CJEU judgment	EC decision legal basis	GC judgment	Outcome of CJEU judgment	Type of judgment	Comments
C-697/22 P Judgment ECLI:EU:C:2024:541 Koiviston Auto Helsinki v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62022CJ0697	Article 108 TFEU	Confirmed the EC	Annuls the GC	PROCEDURAL	<p>The Commission did not permit the appellant sufficient opportunity to submit comments in the course of the administrative procedure.</p> <p>"17. Second, it is contrary to the principle of equal treatment to place the recipient of a transfer of a business which takes place during the formal investigation procedure in a less favourable position than that of the recipient of a transfer of a business which occurs prior to the publication of the decision initiating the procedure, which therefore has the opportunity to submit comments on that matter at the stage of that decision, or than that of the recipient of a transfer of a business which occurs only subsequent to the Commission's final decision, which may submit comments during the national implementation stage.</p> <p>18. Third, the appellant states that the abovementioned approach of the General Court would lead to a situation in which an interested party in a situation comparable to that of the appellant is not given any opportunity to submit its comments, relevant information or evidence before the Commission adopts a decision on the recovery of aid that it has found to be unlawful.</p> <p>59. By the second part of the first ground of appeal, the appellant submits that the General Court erred in finding, in paragraph 51 of the judgment under appeal, that the infringement of Article 108 (2) TFEU on the part of the Commission, by failing to involve the appellant in the formal investigation procedure, did not constitute an infringement of an essential procedural requirement, but only a procedural irregularity, which could entail the annulment of the decision at issue only if it were shown that in the absence of such irregularity that decision might have been substantively different.</p> <p>60. First, as has been recalled in paragraphs 45 and 50 above, the obligation to give interested parties the opportunity to submit their comments on the relevant issues of fact and law by means of the publication of the decision initiating the formal investigation procedure is in the nature of an essential procedural requirement, within the meaning of the second paragraph of Article 263 TFEU.</p> <p>61. Second, as is apparent from paragraphs 55 and 56 above, the transfer of the former HelB to the new HelB constituted a relevant issue, within the meaning of Article 6(1) of Regulation 2015/1589, which, since it could not be included in the opening decision, which predated that event, had to give rise to the publication of a supplementary opening decision, in order to allow the interested parties effectively to submit their comments.</p> <p>62. Consequently, the appellant is justified in claiming that the General Court erred in law in holding, in paragraph 51 of the judgment under appeal, that the Commission had not infringed an essential procedural requirement, but had only committed a procedural irregularity, by failing to involve it in the formal investigation procedure.</p> <p>63. The second part of the first ground of appeal must therefore also be upheld.</p> <p>90. By the first plea in law in its action before the General Court, the new HelB submits that the Commission should have adopted, following the appellant's acquisition of the former HelB, a supplementary decision initiating the formal investigation procedure in order to enable it to submit its comments in the context of that procedure. Furthermore, the appellant states that, by failing to adopt such a decision in order to allow the interested parties to submit their comments, the Commission infringed an essential procedural requirement.</p> <p>91. It is apparent from paragraphs 43 to 64 above that that plea in law is well founded and must therefore be upheld.</p>
C-562/19 P Judgment ECLI:EU:C:2021:201 Commission v Poland	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0562	Article 108 TFEU	Annulled the EC	Confirms the GC	SUBSTANTIAL	<p>The Commission incorrectly classified a taxation scheme as 'state aid' without consideration for the state's normal tax regime.</p> <p>"13. Finally, the Commission viewed the assertion by the Polish authorities that the progressive nature of the tax allows small-scale retailers to be preserved as against large-format retail as evidence that those authorities were seeking to influence the structure of competition in the market.</p> <p>42. It follows from the foregoing that the characteristics constituting the tax, which include progressive tax rates, form, in principle, the reference system or the 'normal' tax regime for the purposes of analysing the condition of selectivity. That said, it cannot be ruled out that those characteristics may, in certain cases, reveal a manifestly discriminatory element, which it is, however, for the Commission to demonstrate.</p> <p>45. The General Court did not therefore err in law in holding, in paragraphs 63 to 67 of the judgment under appeal, that, by considering that the progressive scale of the tax measure at issue was not part of the reference system in the light of which the selective nature of that measure had to be assessed, the Commission had incorrectly relied on an incomplete and fictitious reference system. It follows that the first part of the first ground of appeal must be rejected as unfounded.</p> <p>54. In the present case, the General Court held, in essence, in paragraph 108 of the judgment under appeal, that the Commission had based its provisional classification of the tax measure at issue as new aid on a manifestly incorrect analysis. More specifically, it criticised the Commission for having based its decision primarily on the idea that the introduction of a progressive tax on turnover constituted, in principle, State aid, whereas it should have carried out a detailed analysis intended to substantiate the existence, in its view, of legitimate doubts as to the classification as such of the tax measure at issue, taking into account the information in its possession. It concluded that both the decision to initiate the formal investigation procedure and the accompanying suspension injunction had to be annulled.</p> <p>55. In so ruling, after recalling the principles set out in paragraph 52 of the present judgment, the General Court did no more than carry out in respect of the Commission's provisional classification as State aid in the decision to initiate the formal investigation procedure a review of the manifest error of assessment, as it was required to do. It is apparent from paragraph 108 of the judgment under appeal that it was the lack of detailed evidence substantiating the existence in the present case of legitimate doubts on the part of the Commission as to the classification of the tax measure at issue as State aid which justified the annulment, by the General Court, of the decision to initiate the formal investigation procedure, and not, in any event, a repetition of the reasoning based on which it had previously held that the negative decision had to be annulled, to which it referred only incidentally.</p> <p>56. Furthermore, contrary to what is claimed by the Commission, the General Court did not annul the decision to suspend the tax measure at issue simply as a consequence of the annulment of the decision to initiate the formal investigation procedure. It merely held, in paragraph 109 of the judgment under appeal, that the grounds justifying the annulment of the latter decision, concerning the manifest error of assessment by the Commission as to the provisional classification of the tax measure at issue as State aid, also justified in the present case the annulment of the decision to suspend that measure, whose adoption was also dependent on that provisional classification."</p> <p>The Commission's injunction was not proportional or justified relative to the taxation scheme in question.</p> <p>"65. However, whilst Article 11(1) of Regulation No 659/1999 provides that, before adopting a suspension injunction, the Commission must permit the Member State concerned to submit its comments on that measure, on the other hand, as the Advocate General has correctly observed in point 94 of her Opinion, that provision does not in any way oblige the Member State to submit its comments. Consequently, the fact that Hungary did not make any comments concerning the possible adoption of a suspension injunction was not sufficient to justify the Commission's fear that it would implement the measures at issue.</p> <p>66. Third and last, the General Court mentioned in paragraph 137 of the judgment under appeal the fact that, a few months before the adoption of the injunctions at issue, despite initiation by the Commission of a formal investigation procedure in respect of Hungarian tax measures based on the same system as the national measures at issue in the present case, those measures had not been suspended by the Hungarian authorities. However, as the Advocate General has observed in point 99 of her Opinion, that fact is not part of the context in which the injunctions at issue were adopted, contrary to what the General Court stated in paragraph 137 of the judgment under appeal. Furthermore, if that previous conduct on Hungary's part was a decisive indication for the Commission, it should have mentioned it in the decisions at issue, which was not the case.</p> <p>72. Irrespective of the fact that, as has already been found, those factors could not amount to a sufficient statement of reasons for the decisions at issue, it must be stated that they are not included in those decisions, which the Commission itself indeed acknowledges. In its defence, the Commission contends, on the contrary, that it did not have to set out the grounds for its view that Hungary probably would not comply with the decisions requiring it to suspend implementation of the measures at issue. It further submits that the grounds in paragraphs 135 to 137 of the judgment under appeal are contrary to those set out in paragraphs 70, 71, 130 and 134 of that judgment. The Commission also acknowledged, in its observations on the Republic of Poland's statement in intervention, that the decisions at issue did not provide specific explanations of the reasons why it had taken the view that Hungary was not planning to suspend grant of the aid at issue. That line of argument is, moreover, consistent with the extent of the discretion which the Commission asserted that it has, under Article 11(1) of Regulation No 659/1999, to adopt a decision imposing a suspension injunction, as is apparent from its written pleadings before both the General Court and the Court of Justice.</p> <p>73. It is apparent from the foregoing that the General Court added grounds to those set out by the Commission and thus exceeded the limits of its powers.</p> <p>78. As noted in paragraph 69 of the present judgment, the Commission has itself acknowledged that the decisions at issue did not provide explanations of the reasons why it took the view that Hungary would not suspend the measures at issue despite initiation of the formal investigation procedure. However, the suspension injunctions should have stated reasons in that regard, as has been set out in paragraph 58 of the present judgment and as the General Court also held in paragraph 135 of the judgment under appeal. Therefore, the suspension injunctions at issue are vitiated by an insufficient statement of reasons and infringe Article 296 TFEU. The third plea in Hungary's application at first instance must, accordingly, also be upheld.</p> <p>79. It follows from the foregoing that the suspension injunctions adopted by the decisions at issue must be annulled, and there is no need to examine the other pleas in that application."</p> <p>The Commission used an invalid basis of comparison for determining if a scheme qualified as state aid, and thus failed to sufficiently state its reasons.</p> <p>"54. In their view, the General Court did not indicate how the situation in the municipalities in Area II in Galicia, namely those that use terrestrial technology, is comparable to that of municipalities in which other technologies, such as satellite technology, are used. Examining whether situations are comparable is a prerequisite for establishing the selectivity of the aid.</p> <p>60. In this case, in paragraph 86 of the judgment under appeal, the General Court addressed the appellants' argument at first instance that the statement of reasons concerning the selectivity of the measure at issue, as set out in recital 113 of the decision at issue, was inadequate. The General Court rejected that argument, since that statement of reasons indicated that the measure at issue benefited only the broadcasting sector and that, within that sector, the measure at issue concerned only the undertakings active on the terrestrial platform market.</p> <p>61. That reasoning is vitiated by an error of law. The statement of reasons in the decision at issue – like, moreover, the statement of reasons in the judgment under appeal – contains no indication of the reasons why undertakings active in the broadcasting sector should be regarded as being in a factual and legal situation comparable to that of undertakings active in other sectors or why undertakings using terrestrial technology should be regarded as being in a factual and legal situation comparable to that of undertakings using other technologies. The Commission's argument that no reasoning was necessary in that respect, since the selectivity condition is automatically satisfied if a measure applies exclusively to a specific economic sector or to undertakings in a particular geographic area, cannot be accepted. The Court has held that a measure which benefits only one economic sector or some of the undertakings in that sector is not necessarily selective. It is selective only if, within the context of a particular legal regime, it has the effect of conferring an advantage on certain undertakings over others, in a different sector or the same sector, which are, in the light of the objective pursued by that regime, in a comparable factual and legal situation (judgment of 21 December 2016, Commission v Hansestadt Lübeck, C-524/14 P, EU:C:2016:971, paragraph 58).</p> <p>62. That failure to state reasons constitutes an infringement of essential procedural requirements and therefore impedes judicial review by the EU judicature."</p>
C-565/18 P Judgment ECLI:EU:C:2020:421 Hungary v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62018CJ0456	Article 108 TFEU	Confirmed the EC	Annuls the GC	SUBSTANTIAL	<p>The Commission's injunction was not proportional or justified relative to the taxation scheme in question.</p> <p>"65. However, whilst Article 11(1) of Regulation No 659/1999 provides that, before adopting a suspension injunction, the Commission must permit the Member State concerned to submit its comments on that measure, on the other hand, as the Advocate General has correctly observed in point 94 of her Opinion, that provision does not in any way oblige the Member State to submit its comments. Consequently, the fact that Hungary did not make any comments concerning the possible adoption of a suspension injunction was not sufficient to justify the Commission's fear that it would implement the measures at issue.</p> <p>66. Third and last, the General Court mentioned in paragraph 137 of the judgment under appeal the fact that, a few months before the adoption of the injunctions at issue, despite initiation by the Commission of a formal investigation procedure in respect of Hungarian tax measures based on the same system as the national measures at issue in the present case, those measures had not been suspended by the Hungarian authorities. However, as the Advocate General has observed in point 99 of her Opinion, that fact is not part of the context in which the injunctions at issue were adopted, contrary to what the General Court stated in paragraph 137 of the judgment under appeal. Furthermore, if that previous conduct on Hungary's part was a decisive indication for the Commission, it should have mentioned it in the decisions at issue, which was not the case.</p> <p>72. Irrespective of the fact that, as has already been found, those factors could not amount to a sufficient statement of reasons for the decisions at issue, it must be stated that they are not included in those decisions, which the Commission itself indeed acknowledges. In its defence, the Commission contends, on the contrary, that it did not have to set out the grounds for its view that Hungary probably would not comply with the decisions requiring it to suspend implementation of the measures at issue. It further submits that the grounds in paragraphs 135 to 137 of the judgment under appeal are contrary to those set out in paragraphs 70, 71, 130 and 134 of that judgment. The Commission also acknowledged, in its observations on the Republic of Poland's statement in intervention, that the decisions at issue did not provide specific explanations of the reasons why it had taken the view that Hungary was not planning to suspend grant of the aid at issue. That line of argument is, moreover, consistent with the extent of the discretion which the Commission asserted that it has, under Article 11(1) of Regulation No 659/1999, to adopt a decision imposing a suspension injunction, as is apparent from its written pleadings before both the General Court and the Court of Justice.</p> <p>73. It is apparent from the foregoing that the General Court added grounds to those set out by the Commission and thus exceeded the limits of its powers.</p> <p>78. As noted in paragraph 69 of the present judgment, the Commission has itself acknowledged that the decisions at issue did not provide explanations of the reasons why it took the view that Hungary would not suspend the measures at issue despite initiation of the formal investigation procedure. However, the suspension injunctions should have stated reasons in that regard, as has been set out in paragraph 58 of the present judgment and as the General Court also held in paragraph 135 of the judgment under appeal. Therefore, the suspension injunctions at issue are vitiated by an insufficient statement of reasons and infringe Article 296 TFEU. The third plea in Hungary's application at first instance must, accordingly, also be upheld.</p> <p>79. It follows from the foregoing that the suspension injunctions adopted by the decisions at issue must be annulled, and there is no need to examine the other pleas in that application."</p> <p>The Commission used an invalid basis of comparison for determining if a scheme qualified as state aid, and thus failed to sufficiently state its reasons.</p> <p>"54. In their view, the General Court did not indicate how the situation in the municipalities in Area II in Galicia, namely those that use terrestrial technology, is comparable to that of municipalities in which other technologies, such as satellite technology, are used. Examining whether situations are comparable is a prerequisite for establishing the selectivity of the aid.</p> <p>60. In this case, in paragraph 86 of the judgment under appeal, the General Court addressed the appellants' argument at first instance that the statement of reasons concerning the selectivity of the measure at issue, as set out in recital 113 of the decision at issue, was inadequate. The General Court rejected that argument, since that statement of reasons indicated that the measure at issue benefited only the broadcasting sector and that, within that sector, the measure at issue concerned only the undertakings active on the terrestrial platform market.</p> <p>61. That reasoning is vitiated by an error of law. The statement of reasons in the decision at issue – like, moreover, the statement of reasons in the judgment under appeal – contains no indication of the reasons why undertakings active in the broadcasting sector should be regarded as being in a factual and legal situation comparable to that of undertakings active in other sectors or why undertakings using terrestrial technology should be regarded as being in a factual and legal situation comparable to that of undertakings using other technologies. The Commission's argument that no reasoning was necessary in that respect, since the selectivity condition is automatically satisfied if a measure applies exclusively to a specific economic sector or to undertakings in a particular geographic area, cannot be accepted. The Court has held that a measure which benefits only one economic sector or some of the undertakings in that sector is not necessarily selective. It is selective only if, within the context of a particular legal regime, it has the effect of conferring an advantage on certain undertakings over others, in a different sector or the same sector, which are, in the light of the objective pursued by that regime, in a comparable factual and legal situation (judgment of 21 December 2016, Commission v Hansestadt Lübeck, C-524/14 P, EU:C:2016:971, paragraph 58).</p> <p>62. That failure to state reasons constitutes an infringement of essential procedural requirements and therefore impedes judicial review by the EU judicature."</p>
C-70/16 P Judgment ECLI:EU:C:2017:1002 Comunidad Autónoma de Galicia and Retegal v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62016CJ0070	Article 108 TFEU	Confirmed the EC	Annuls the GC	SUBSTANTIAL	<p>The Commission used an invalid basis of comparison for determining if a scheme qualified as state aid, and thus failed to sufficiently state its reasons.</p> <p>"54. In their view, the General Court did not indicate how the situation in the municipalities in Area II in Galicia, namely those that use terrestrial technology, is comparable to that of municipalities in which other technologies, such as satellite technology, are used. Examining whether situations are comparable is a prerequisite for establishing the selectivity of the aid.</p> <p>60. In this case, in paragraph 86 of the judgment under appeal, the General Court addressed the appellants' argument at first instance that the statement of reasons concerning the selectivity of the measure at issue, as set out in recital 113 of the decision at issue, was inadequate. The General Court rejected that argument, since that statement of reasons indicated that the measure at issue benefited only the broadcasting sector and that, within that sector, the measure at issue concerned only the undertakings active on the terrestrial platform market.</p> <p>61. That reasoning is vitiated by an error of law. The statement of reasons in the decision at issue – like, moreover, the statement of reasons in the judgment under appeal – contains no indication of the reasons why undertakings active in the broadcasting sector should be regarded as being in a factual and legal situation comparable to that of undertakings active in other sectors or why undertakings using terrestrial technology should be regarded as being in a factual and legal situation comparable to that of undertakings using other technologies. The Commission's argument that no reasoning was necessary in that respect, since the selectivity condition is automatically satisfied if a measure applies exclusively to a specific economic sector or to undertakings in a particular geographic area, cannot be accepted. The Court has held that a measure which benefits only one economic sector or some of the undertakings in that sector is not necessarily selective. It is selective only if, within the context of a particular legal regime, it has the effect of conferring an advantage on certain undertakings over others, in a different sector or the same sector, which are, in the light of the objective pursued by that regime, in a comparable factual and legal situation (judgment of 21 December 2016, Commission v Hansestadt Lübeck, C-524/14 P, EU:C:2016:971, paragraph 58).</p> <p>62. That failure to state reasons constitutes an infringement of essential procedural requirements and therefore impedes judicial review by the EU judicature."</p>

Table 2: Reversals of DG Comp Decisions Before the CJEU (1 Nov. 2014 to 30 Nov. 2024)

CJEU reference	URL to the CJEU judgment	EC decision legal basis	GC judgment	Outcome of CJEU judgment	Type of judgment	Comments
C-611/22 P Judgment ECLI:EU:C:2024:677 Illumina v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62022CJ0611	Article 22 of Regulation No 139/2004	Confirmed the EC	Annuls the GC	PROCEDURAL	The Commission did not have competence to accept a request to examine a concentration which did not fall under any national merger control rules. "216. As has been pointed out in paragraph 183 above, a specific legislative procedure was provided for with a view to revising the thresholds which define the scope of that regulation. Therefore, even if the effectiveness of the thresholds determining competence on the basis of turnover provided for in Regulation No 139/2004 were to prove insufficient to scrutinise some transactions capable of significantly affecting competition, it is for the EU legislature alone to review those thresholds or to provide for a safeguard mechanism enabling the Commission to scrutinise such a transaction. 217. Moreover, even assuming that the developments observed in some markets, involving, in particular, innovative undertakings which play or are capable of playing an important competitive role despite the fact that they generate little or no turnover at the time of the concentration, warrant extending the sphere of transactions that merit prior examination, it is open to the Member States to revise downwards their own thresholds determining competence based on turnover as laid down by national legislation. 218. It follows from all those considerations that the General Court erred in law in its interpretation of the first subparagraph of Article 22(1) of Regulation No 139/2004, by holding that the Member States may, under the conditions set out therein, make a request under that provision irrespective of the scope of their national rules on the ex ante control of concentrations. The General Court therefore erred in holding that the Commission had been right, by the decisions at issue, to accept the referral request and the requests to join under Article 22 of Regulation No 139/2004. 222. In that regard, it is sufficient to note that, for the reasons set out in paragraphs 121 to 218 above, the decisions at issue must be annulled, since the Commission could not rely on Article 22 of Regulation No 139/2004 to examine the concentration at issue. The Commission misinterpreted Regulation No 139/2004 by finding, in those decisions, that it could accept a request under Article 22 of that regulation in a situation where Member States making that request are not entitled, under their national merger control rules, to examine the concentration which is the subject of that request."
C-31/23 P Judgment ECLI:EU:C:2024:851 Ferriere Nord v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62023CJ0031	Article 65 of the ECSC Treaty	Confirmed the EC	Other (Point 1 of the original judgement annulled; otherwise confirms)	PROCEDURAL	The Commission applied an incorrect fine amount under the principle of equal treatment. "293. En effet, il est constant que la Commission a accordé une réduction de 2 % par an à la requérante, s'agissant de la période pendant laquelle elle n'a pas participé au volet de l'entente en cause, tandis que la réduction était de 3 % pour Riva. 294. Il est vrai que, en l'absence d'autres éléments permettant de différencier la participation de ces deux entreprises à cette entente, le fait que Riva ait participé à ladite entente pendant dix ans et six mois signifiait que cette participation a eu un effet sur la concurrence plus grave que celle de la requérante, qui n'y a participé que pendant sept ans. Toutefois, cette constatation ne saurait être étendue aux périodes au cours desquelles les entreprises n'ont pas participé à un certain volet de cette entente, car leur non-participation à ce volet avait, en principe, le même effet sur la concurrence. 295. Certes, il est possible de pondérer la réduction accordée en raison de la non-participation à un volet de l'entente en fonction de la durée totale de la participation de chacune des entreprises à cette entente. Toutefois, en l'espèce, la requérante, pendant trois ans, durée représentant près de la moitié de sa participation à ladite entente, n'a pas participé à ce volet, alors que Riva, durant les dix ans et six mois de sa participation à la même entente, n'avait omis de participer audit volet que pendant un an. 300. Il ressort des points 286 à 297 du présent arrêt que la décision litigieuse n'est pas compatible avec le principe d'égalité de traitement, en ce qu'elle a accordé à la requérante une réduction de 2 % par an du montant de l'amende, au titre d'une période pendant laquelle celle-ci n'a pas participé à un volet de l'entente en cause, alors qu'elle a accordé, pour les mêmes considérations, une réduction de 3 % à Riva. La Cour ayant constaté l'illegalité de la décision litigieuse, elle peut, dans le cadre de l'exercice de sa compétence de pleine juridiction, substituer son appréciation à celle de la Commission et, en conséquence, supprimer, réduire ou majorer l'amende. Cette compétence est exercée en tenant compte de toutes les circonstances de fait (arrêt du 12 novembre 2014, Guardian Industries et Guardian Europe/Commission, C-580/12 P, EU:C:2014:2363, point 78 ainsi que jurisprudence citée). En l'espèce, la Cour considère, dans l'exercice de sa compétence de pleine juridiction, que le taux de réduction du montant de l'amende de 3 % par an devrait également être appliqué à la requérante."
C-89/15 P Judgment ECLI:EU:C:2017:713 Riva Fire v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62015CJ0089	Article 65 ECSC	Other (Reduced the fine, otherwise confirmed)	Annuls the GC (and thus the EC)	PROCEDURAL	The Commission did not grant the applicant sufficient opportunity to respond, as it failed to reproduce a hearing where the defendant was not invited. "40. In this respect, it is important to note that, under the procedural rules established by Regulation No 1/2003, as made explicit in Regulation No 773/2004, it is laid down in Article 14(3) of the latter regulation that the competition authorities of the Member States are to be invited to participate in the oral hearing which, upon the request of the addressees of the statement of objections, is to follow the issuing of that statement. 41. In respect of the oral hearings that took place during 2002, the representatives of the Member States did not participate in that of 13 June 2002, since such participation was not provided for in the ECSC Treaty, which was in force at the time. It is common ground that that hearing concerned the substance of the case, namely the conduct in respect of which the Commission accused the addressees of the statement of objections. This is apparent, in particular, from paragraphs 379 to 382 of the decision at issue and is confirmed in paragraph 148 of the judgments of 9 December 2014, Alfa Acciai v Commission (T-85/10, not published, EU:T:2014:1037) and Ferriera Valsabbia and Valsabbia Investment v Commission (T-92/10, not published, EU:T:2014:1032). 42. However, the hearing of 30 September 2002 – to which the representatives of the Member States were invited in accordance with the rules of the EC Treaty, which by that point were applicable, in particular in accordance with Article 11(2) of Regulation No 2842/98 – concerned the subject matter of the supplementary statement of objections, namely the legal consequences of the expiry of the ECSC Treaty for the continuation of the proceedings. This is clear, first, from that statement, which expressly invited its addressees to make their point of view on those supplementary objections known. Second, the Commission stated, in paragraph 382 of the decision at issue, that it did not consider it necessary to repeat the oral hearing of 13 June 2002, in application of the provisions of Regulations No 17 and 1/2003, since that hearing, in which the Member State representatives did not participate, had been conducted in conformity with the rules of the ECSC Treaty, which was applicable at the time. Furthermore, at the joint hearing in Cases C-85/15 P to C-89/15 P, the Commission confirmed, in its reply to a question from the Court, that the supplementary statement of objections re-examined neither the facts nor the evidence forming the subject matter of the proceedings. 43. It follows from this that, in the present case, the representatives of the Member States did not participate in a hearing concerning the substance of the case, but participated only in the hearing concerning the legal consequences resulting from the expiry of the ECSC Treaty. 44. Yet, according to the case-law noted in paragraphs 28 and 29 of the present judgment, when a decision is adopted on the basis of Regulation No 1/2003, the procedure resulting in that decision must conform to the procedural rules laid down by that regulation, even if the procedure began before that regulation came into force. 48. In so far as the right to such a hearing, provided for by Regulation No 773/2004, was not respected, it is not necessary for the undertaking, the rights of which have been infringed in this way, to demonstrate that such infringement might have influenced the course of the proceedings and the content of the decision at issue to its detriment. 49. Accordingly, the procedure is necessarily vitiated, regardless of any possible detrimental consequences for Riva that could result from that infringement (see, to that effect, judgments of 6 November 2012, Commission v Editions Odile Jacob, C-553/10 P and C-554/10 P, EU:C:2012:682, paragraphs 46 to 52, and of 9 June 2016, CEPASA v Commission, C-608/13 P, EU:C:2016:414, paragraph 36)."
C-88/15 P Judgment ECLI:EU:C:2017:716 Ferriere Nord v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62015CJ0088	Article 65 ECSC	Other (Reduced the fine, otherwise confirmed)	Annuls the GC (and thus the EC)	PROCEDURAL	The Commission did not grant the applicant sufficient opportunity to respond, as it failed to reproduce a hearing where the defendant was not invited. "19. By its second ground of appeal, which must be considered first, Ferriere Nord claims that the General Court erred in law by reaching the conclusion that the Commission was not required to send to it a new statement of objections before adopting the decision at issue. 45. However, as the Advocate General noted in point 55 of his Opinion, according to Article 12 of Regulation No 773/2004, the Commission must give the parties to whom it addressed a statement of objections the opportunity to develop their arguments at an oral hearing, if they so request in their written observations. Therefore, given that, as is clear from paragraph 43 of the present judgment, the statement of objections and the supplementary statement of objections were not affected by the annulment of the 2002 decision, it is necessary to assess whether the Commission gave the parties the opportunity to develop their arguments at an oral hearing conducted in accordance with the procedural requirements of Regulations No 1/2003 and 773/2004, as it was required to do. 49. It follows from this that, in the present case, the representatives of the Member States did not participate in a hearing concerning the substance of the case, but participated only in the one concerning the legal consequences resulting from the expiry of the ECSC Treaty. 50. Yet, according to the case-law noted in paragraphs 36 and 37 of the present judgment, when a decision is adopted on the basis of Regulation No 1/2003, the procedure resulting in that decision must conform to the procedural rules laid down by that regulation, even if the procedure began before that regulation came into force. 51. It follows that, before adopting the decision at issue, the Commission was required, in application of Articles 12 and 14 of Regulation No 773/2004, to give the parties the opportunity to develop their arguments during a hearing to which the competition authorities of the Member States were invited. Therefore, it cannot be held that the hearing of 13 June 2002, concerning the substance of the case, fulfilled the procedural requirements in relation to the adoption of a decision on the basis of Regulation No 1/2003. 52. As a result, the General Court made an error in law in holding, in paragraph 148 of the judgment under appeal, that the Commission was not obligated to organise a new hearing with the Hearing Officer before adopting the decision at issue, since the undertakings concerned had already had the opportunity to be heard orally at the hearings of 13 June and 30 September 2002. 53. As the Advocate General pointed out in points 56 and 57 of his Opinion, having regard to the importance, in the context of a procedure provided for by Regulations No 1/2003 and 773/2004, of holding an oral hearing to which the competition authorities of the Member States are invited, in accordance with Article 14(3) of the latter regulation, failure to hold such a hearing constitutes infringement of an essential procedural requirement. 54. In so far as the right to such a hearing, provided for by Regulation No 773/2004, was not respected, it is not necessary for the undertaking, the rights of which have been infringed in this way, to demonstrate that such infringement might have influenced the course of the proceedings and the content of the decision at issue to its detriment. 55. Accordingly, the procedure is necessarily vitiated, regardless of any possible detrimental consequences for Ferriere Nord that could result from that infringement (see, to that effect, judgments of 6 November 2012, Commission v Editions Odile Jacob, C-553/10 P and C-554/10 P, EU:C:2012:682, paragraphs 46 to 52, and of 9 June 2016, CEPASA v Commission, C-608/13 P, EU:C:2016:414, paragraph 36)."

Table 2: Reversals of DG Comp Decisions Before the CJEU (1 Nov. 2014 to 30 Nov. 2024)

CJEU reference	URL to the CJEU judgment	EC decision legal basis	GC judgment	Outcome of CJEU judgment	Type of judgment	Comments
C-86/15 P Judgment ECLI:EU:C:2017:717 Ferriera Valsabbia and Valsabbia Investimenti v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62015CJ0086	Article 65 ECSC	Confirmed the EC	Annuls the GC	PROCEDURAL	<p>The Commission did not grant the applicant sufficient opportunity to respond, as it failed to reproduce a hearing where the defendant was not invited.</p> <p>"41. However, as the Advocate General noted in point 55 of his Opinion, according to Article 12 of Regulation No 773/2004, the Commission must give the parties to whom it addressed a statement of objections the opportunity to develop their arguments at an oral hearing, if they so request in their written comments. Therefore, given that, as is clear from paragraph 36 of the present judgment, the statement of objections and the supplementary statement of objections were not affected by the annulment of the 2002 decision, it is necessary to assess whether the Commission gave the parties the opportunity to develop their arguments at an oral hearing conducted in accordance with the procedural requirements of Regulations No 1/2003 and 773/2004, in particular those referred to in Article 14 of the latter regulation, as it was required to do.</p> <p>44. It follows from this that, in the present cases, the representatives of the Member States did not participate in a hearing concerning the substance of the cases, but only in the one relating to the legal consequences resulting from the expiry of the ECSC Treaty.</p> <p>45. Yet, according to the case-law noted in paragraphs 31 and 32 of the present judgment, when a decision is adopted on the basis of Regulation No 1/2003, the procedure resulting in that decision must conform to the procedural rules laid down by that regulation, even if the procedure began before that regulation came into force.</p> <p>46. It follows that, before adopting the decision at issue, the Commission was required, in application of Articles 12 and 14 of Regulation No 773/2004, to give the parties the opportunity to develop their arguments during a hearing to which the competition authorities of the Member States were invited. Therefore, it cannot be held that the hearing of 13 June 2002, concerning the substance of the case, fulfilled the procedural requirements in relation to the adoption of a decision on the basis of Regulation No 1/2003.</p> <p>47. As a result, the General Court made an error in law in holding, in paragraphs 147 and 148 of the judgments under appeal, that the Commission was not obligated to organise a new hearing in accordance with Article 14 of Regulation No 773/2004 before adopting the decision at issue, on the ground that the substantive hearing of 13 June 2002, in which the Member States did not participate, had been conducted in conformity with the rules of the ECSC Treaty, which was in force at the time, in compliance with the principles governing the temporal application of the law.</p> <p>48. As the Advocate General pointed out in points 56 and 57 of his Opinion, having regard to the importance, in the context of a procedure provided for by Regulations No 1/2003 and 773/2004, of holding an oral hearing to which the competition authorities of the Member States are invited, in accordance with Article 14(3) of the latter regulation, failure to hold such a hearing constitutes infringement of an essential procedural requirement.</p> <p>49. In so far as the right to such a hearing, provided for by Regulation No 773/2004, was not respected, it is not necessary for the undertaking, the rights of which have been infringed in this way, to demonstrate that such infringement might have influenced the course of the proceedings and the content of the decision at issue to its detriment.</p> <p>50. Accordingly, the procedure is necessarily vitiated, regardless of any possible detrimental consequences for the appellants that could result from that infringement (see, to that effect, judgments of 6 November 2012, <i>Commission v Editions Odile Jacob</i>, C-553/10 P and C-554/10 P, EU:C:2012:682, paragraphs 46 to 52, and of 9 June 2016, <i>CEPSA v Commission</i>, C-608/13 P, EU:C:2016:414, paragraph 36)."</p>
C-85/15 P Judgment ECLI:EU:C:2017:709 Feralpi v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62015CJ0085	Article 65 ECSC	Confirmed the EC	Annuls the GC	PROCEDURAL	<p>The Commission did not grant the applicant sufficient opportunity to respond, as it failed to reproduce a hearing where the defendant was not invited.</p> <p>"29. Article 10(1) and (2) of Regulation No 773/2004, read in the light of Article 27(1) of Regulation No 1/2003, which it implements, provides that before adopting a decision under, inter alia, Article 7 of the latter regulation, the Commission is to notify a statement of objections to the parties concerned, giving them the opportunity to make their opinions on it known within a period determined by the Commission.</p> <p>37. However, as the Advocate General noted in point 55 of his Opinion, according to Article 12 of Regulation No 773/2004, the Commission must give the parties to whom it addressed a statement of objections the opportunity to develop their arguments at an oral hearing, if they so request in their written comments. Therefore, given that, as is clear from paragraph 32 of the present judgment, the statement of objections and the supplementary statement of objections were not affected by the annulment of the 2002 decision, it is necessary to assess whether the Commission gave the parties the opportunity to develop their arguments at an oral hearing conducted in accordance with the procedural requirements of Regulations No 1/2003 and 773/2004, as it was required to do.</p> <p>38. In this respect, it is important to note that, under the procedural rules established by Regulation No 1/2003, as made explicit in Regulation No 773/2004, it is laid down in Article 14(3) of that regulation that the competition authorities of the Member States are to be invited to participate in the oral hearing which, upon the request of the addressees of the statement of objections, is to follow the issuing of the that statement.</p> <p>41. It follows from this that, in the present case, the representatives of the Member States did not participate in a hearing concerning the substance of the case, but participated only in the one concerning the legal consequences resulting from the expiry of the ECSC Treaty.</p> <p>42. Yet, according to the case-law noted in paragraphs 27 and 28 of the present judgment, when a decision is adopted on the basis of Regulation No 1/2003, the procedure resulting in that decision must conform to the procedural rules laid down by that regulation, even if the procedure began before that regulation came into force.</p> <p>43. It follows that, before adopting the decision at issue, the Commission was required, in application of Articles 12 and 14 of Regulation No 773/2004, to give the parties the opportunity to develop their arguments during a hearing to which the competition authorities of the Member States were invited. Therefore, it cannot be held that the hearing of 13 June 2002, concerning the substance of the case, fulfilled the procedural requirements in relation to the adoption of a decision on the basis of Regulation No 1/2003.</p> <p>44. As a result, the General Court made an error in law in holding, in paragraph 142 of the judgment under appeal, that the Commission was not obligated to organise a new hearing before adopting the decision at issue, on the ground that the undertakings concerned had already had the opportunity to be heard orally at the hearings of 13 June and 30 September 2002.</p> <p>45. As the Advocate General pointed out in points 56 and 57 of his Opinion, having regard to the importance, in the context of a procedure provided for by Regulations No 1/2003 and 773/2004, of holding an oral hearing to which the competition authorities of the Member States are invited, in accordance with Article 14(3) of the latter regulation, failure to hold such a hearing constitutes infringement of an essential procedural requirement.</p> <p>46. In so far as the right to such a hearing, provided for by Regulation No 773/2004, was not respected, it is not necessary for the undertaking, the rights of which have been infringed in this way, to demonstrate that such infringement might have influenced the course of the proceedings and the content of the decision at issue to its detriment.</p> <p>47. Accordingly, the procedure is necessarily vitiated, regardless of any possible detrimental consequences for Feralpi that could result from such an infringement (see, to that effect, judgments of 6 November 2012, <i>Commission v Editions Odile Jacob</i>, C-553/10 P and C-554/10 P, EU:C:2012:682, paragraphs 46 to 52, and of 9 June 2016, <i>CEPSA v Commission</i>, C-608/13 P, EU:C:2016:414, paragraph 36).</p>
C-603/13 P Judgment ECLI:EU:C:2016:38 Galp Energia España and Others v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62013CJ0603	Article 81 EC	Other (Fixed the fine amount, but otherwise upheld)	Other (Sets aside, then fixes the amount of fines, otherwise confirms)	SUBSTANTIAL	<p>The fine imposed by the Commission did not accurately reflect the appellants' infringement.</p> <p>"78. In this case, as has been noted in paragraph 70 of the present judgment, even though it had held that the Commission had failed to establish that the appellants had participated in the compensation mechanism and in the monitoring system, and that the contested decision was not based on any ground other than the participation of those appellants in those two aspects of the infringement, the General Court, in the context of its unlimited jurisdiction, held in paragraphs 625, 626 and 630 of the judgment under appeal that the appellants were aware of the participation of the other members of the cartel in the compensation mechanism, but also that they could foresee the participation of those other members in the monitoring system. Consequently, it held that, first, they could be held liable under Article 101 TFEU and, secondly, that it was necessary to take account of that fact when fixing the amount of the fine.</p> <p>81. Consequently, the judgment under appeal must be set aside in so far as it fixes, in paragraph 3 of its operative part, the new amount of the fines imposed on the appellants, taking account of the finding, made incorrectly by the General Court in the exercise of its unlimited jurisdiction in paragraphs 625, 626 and 630 of that judgment, according to which the appellants were aware of the participation of other members of the cartel in the compensation mechanism and that they could also foresee the participation of those other members in the monitoring system, and, therefore, that the appellants could be held liable in that regard.</p> <p>91. In the present case, it must be stated that the appellants participated, within Spanish territory, in a single and continuous infringement consisting essentially in market sharing and price coordination, an infringement which is very serious by virtue of its intrinsic nature (see, to that effect, judgment in <i>Versalis v Commission</i>, C-511/11 P, EU:C:2013:386, paragraph 83), during a significant period of seven years and eight months in the case of GALP Energia España and Petróleos de Portugal and of three years and five months in the case of GALP Energia SGPS.</p> <p>92. It is also necessary to take into consideration the fact that, as regards their individual situation, the appellants held, as is apparent from paragraph 514 of the contested decision, market shares of 4.54%, allowing it to be concluded, as the General Court did in paragraph 631 of the judgment under appeal, that, because of their size, they were not capable, by their infringing conduct, of causing significant damage to competition. Moreover, it was concluded, correctly, by the Commission, in paragraphs 566 and 567 of the contested decision, that the appellants had participated in the infringement in a more limited way than the other undertakings.</p> <p>93. For the purposes of fixing the fine to be imposed on the appellants, the Court intends to adopt the assessments made by the Commission and by the General Court with respect to the basic amount of the fine and the 10% reduction thereof on account of the appellants' limited participation in the infringement at issue. An additional reduction of 10% of the basic amount must, however, be applied, that reduction being thus added to the 10% reduction already granted in the contested decision by reason of the lack of evidence by the Commission of the appellants' participation in the compensation mechanism and the monitoring system.</p> <p>94. In those circumstances, and given all the factual circumstances of the case (see judgment in <i>Guardian Industries and Guardian Europe v Commission</i>, C-580/12 P, EU:C:2014:2363, paragraph 78 and the case-law cited), the amount of the joint and several fine imposed on GALP Energia España and Petróleos de Portugal is fixed at EUR 7.7 million, of which GALP Energia SGPS is held jointly and severally liable for EUR 5.72 million."</p>

Table 2: Reversals of DG Comp Decisions Before the CJEU (1 Nov. 2014 to 30 Nov. 2024)

CJEU reference	URL to the CJEU judgment	EC decision legal basis	GC judgment	Outcome of CJEU judgment	Type of judgment	Comments
C-583/13 P Judgment ECLI:EU:C:2015:404 Deutsche Bahn and Others v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62015CJ0583	Article 81 EC	Confirmed the EC	Other (Annuls C(2011) 2365 and C(2011) 5230, otherwise confirms)	PROCEDURAL	The Commission prejudiced its inspectors by using information obtained in an inspection for purposes other than those in the warrant. <p>*51. By its conduct, the Commission knowingly created a risk that the information communicated to its agents concerning the DUSS file would lead them to direct their attention specifically to the documents pertaining to DUSS, even though they did not relate to the subject-matter of the first inspection. Consequently, and contrary to what the General Court held, the exception to the prohibition on using documents unrelated to the subject-matter of the inspection, which was allowed by the Court in its judgment in Dow Benelux v Commission (85/87, EU:C:1989:379), was not applicable.</p> <p>57. Moreover, under Article 28(1) of Regulation No 1/2003, information obtained during investigations must not be used for purposes other than those indicated in the inspection warrant or decision (see, to that effect, judgment in Dow Benelux v Commission, 85/87, EU:C:1989:379, paragraph 17).</p> <p>61. In the present case, it is apparent from both paragraph 162 of the judgment under appeal and the Commission's statements at the hearing that it informed its agents immediately, before the first inspection was conducted, that there was another complaint against Deutsche Bahn concerning its subsidiary DUSS.</p> <p>66. Therefore, the first inspection was vitiated by irregularity since the Commission's agents, being previously in possession of information unrelated to the subject-matter of that inspection, proceeded to seize documents falling outside the scope of the inspection as circumscribed by the first contested decision.</p> <p>67. It follows from all the foregoing that the General Court erred in law in holding, in paragraph 162 of the judgment under appeal, that the fact that the Commission told its officials about the existence of the complaint about DUSS before the first inspection decision was based on valid reasons for providing the officials with general background information on the case, without, moreover, providing reasons, when it is manifestly clear that such provision of information does not fall within the subject-matter of the first inspection decision and therefore disregards the safeguards forming the framework for the Commission's powers of inspection.</p> <p>68. In those circumstances, the third ground of appeal must be upheld.*</p>
C-351/15 P Judgment ECLI:EU:C:2017:27 Commission v Total and Elf Aquitaine	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62015CJ0351	Article 81 EC and Article 53 EEA	Other (Annulled the interest demand, but otherwise upheld)	Confirms the GC	PROCEDURAL	The Commission incorrectly held that enforcement letters demanding payment of default interest were not a separate legal obligation. <p>*38. It is from that perspective that the Commission, in its first ground of appeal, argues essentially that, as regards the obligation to pay the default interest demanded, the contested letters are not intended to produce binding legal effects separate from those deriving from the Methacrylates decision, since that obligation to pay default interest arises only from that decision and the relevant regulatory provisions, and that those letters added nothing to that decision. Thus, the contested letters were preparatory to the possible enforcement of the Methacrylates decision.</p> <p>49. It follows that the General Court has not erred in law by holding, in particular in paragraph 99 of the judgment under appeal, that the contested letters, in so far as by them the Commission had demanded default interest, produced binding legal effects such as to affect the respondents' interests by bringing about a distinct change in their legal position, and therefore, by treating those letters as challengeable acts within the meaning of Article 263 TFEU.</p> <p>51. By its second ground of appeal, the Commission criticises the General Court, essentially, for infringing the principles of <i>lis pendens</i> and <i>res judicata</i>, in that it detached, in particular in paragraphs 80 and 93 to 101 of the judgment under appeal, the question of default interest to be paid from the rest of the Methacrylates decision.</p> <p>54. In so far as the second ground of appeal is based essentially on the Commission's argument, as argued in relation to its first ground of appeal, that the demand for default interest in the contested letters is only an enforcement measure for what is already laid down in the Methacrylates decision and is not dissociable from it, it must be held that that argument, as is clear, in particular from paragraphs 44 to 52 of the present judgment, cannot be accepted.</p> <p>55. Furthermore, and to the same effect, the Court, in paragraph 89 of the order of 7 February 2012, <i>Total and Elf Aquitaine v Commission</i> (C-421/11 P, not published, EU:C:2012:60), as the General Court rightly recalled in paragraph 100 of the judgment under appeal, dismissed as manifestly inadmissible the claim brought by the respondents in the appeal which gave rise to that order, exempting them from paying interest, having regard to the fact that it did not relate to the judgment which was the subject of that appeal and, therefore, the Methacrylates decision, but the contested letters imposing default interest.*</p>
C-162/15 P Judgment ECLI:EU:C:2017:205 Evonik Degussa v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62015CJ0162	Article 81 EC and Article 53 EEA	Confirmed the EC	Other (Annuls C(2012) 3534, otherwise confirms)	PROCEDURAL	The Commission did not grant the appellant sufficient opportunity to defend itself, given the Commission's proceedings had the potential to violate confidentiality and equal treatment. <p>*21. Being of the view that that extended version of the PHP Decision contained confidential information or business secrets, the appellant informed the Commission, in a letter of 23 December 2011, that it objected to the proposed publication. In support of that objection, the appellant claimed, more particularly, that that version contained a significant amount of information which it had sent to the Commission under the 2002 Leniency Notice, and also the names of a number of its collaborators and information concerning its business relations. In the appellant's contention, the proposed publication would thus fail to have regard, in particular, to the principles of the protection of legitimate expectations and equal treatment and would be liable to have an adverse effect on the Commission's investigations.</p> <p>42. In accordance with Article 8(2) of that decision, the interested person may then, in the case of information which may, in its view, constitute a business secret or other confidential information, object to its disclosure, referring the matter to the hearing officer. Where the hearing officer finds that the contested information may be disclosed, either because it does not constitute a business secret or other confidential information or because there is an overriding interest in its disclosure, he must take a reasoned decision specifying the date after which the information will be disclosed, which may not be less than one week from the date of notification.</p> <p>46. However, although that provision sets out the reasons which allow the hearing officer to find that a piece of information may be disclosed, it does not limit, by contrast, the grounds arising from rules or principles of EU law on which the interested person may rely in order to object to the proposed publication.</p> <p>47. In the present case, the appellant submitted before the General Court, in essence, that the observance of the principles of the protection of legitimate expectations and equal treatment constitutes a legitimate ground which could justify the contested information benefiting from the protection of EU law against disclosure and that, in refraining from ruling on the objections based on those principles, the hearing officer erred in law.</p> <p>48. In that regard, the General Court noted, first of all, in paragraph 33 of the judgment under appeal, that where the hearing officer takes a decision pursuant to Article 8 of Decision 2011/695, he is required not merely to examine whether the version of a decision penalising an infringement of Article 101 TFEU submitted to him contains business secrets or other confidential information enjoying similar protection. He is also required to check whether that version contains other information which may not be disclosed to the public either on the basis of rules of EU law affording such information specific protection or because it is information of the kind covered by the obligation of professional secrecy.</p> <p>49. The General Court then found, in essence, in paragraphs 42 and 43 of the judgment under appeal, that the principles of the protection of legitimate expectations and equal treatment, on which the appellant relied before the hearing officer, are not rules intended to afford specific protection against disclosure to the public of information such as that communicated to the Commission by the appellant in order to obtain leniency from it. Those principles did not, therefore, come, in and of themselves, within the protection which EU law confers on information which has come to the knowledge of the Commission in the context of proceedings under Article 101 TFEU.</p> <p>54. The scope of Article 8(2) of Decision 2011/695 would be considerably reduced if that provision had to be interpreted as allowing, as the General Court held in paragraph 42 of the judgment under appeal, the hearing officer to take into account only those rules intended to afford specific protection against disclosure of the information to the public, such as the rules in Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ 2001 L 8, p. 1) or in Regulation No 1049/2001.</p> <p>55. It follows that the grounds which may restrict the disclosure of information, such as that communicated by the appellant to the Commission with a view to obtaining leniency from it, are not restricted to those arising solely from the rules intended to afford specific protection against disclosure to the public of that information and that the hearing officer must, therefore, examine any objection based on a ground, arising from rules or principles of EU law, relied on by the interested person in order to claim protection of the confidentiality of the contested information.</p> <p>56. Consequently, in holding, in paragraph 44 of the judgment under appeal, that the hearing officer had, in the present case, been correct to decline competence to answer the appellant's objections to the proposed publication raised on the basis of the observance of the principles of the protection of legitimate expectations and equal treatment, the General Court erred in law.</p> <p>127. In the light of the considerations set out in paragraphs 39 to 57 above, the decision at issue must be annulled in so far as in that decision the hearing officer declined competence to answer the appellant's objections to the proposed publication by the Commission of the extended version of the PHP Decision, which were based on the observance of the principles of the protection of legitimate expectations and equal treatment.*</p>
C-597/13 P Judgment ECLI:EU:C:2015:613 Total v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62015CJ0597	Article 81 EC and Article 53 EEA	Confirmed the EC	Other (Sets aside the fine amount, otherwise confirms)	SUBSTANTIAL	The Commission miscalculated the fine by not applying the subsidiary's liability reduction to the parent company, whose liability is purely derivative. <p>*31. In its first and third grounds of appeal, Total challenges the fact that, in the judgment under appeal, the General Court did not take into account the judgment in <i>Total Raffinage Marketing v Commission</i> (T-566/08, EU:T:2013:423) that reduced the fine imposed on Total France to EUR 125459842. Total submits that, in accordance with the Court's case-law arising from the judgment in <i>Commission v Tomkins</i> (C-286/11 P, EU:C:2013:29), the General Court was bound to reduce that fine also in relation to Total.</p> <p>37. In the present case, the Commission imputed Total France's liability to Total and imposed a fine of EUR 128163000 jointly and severally on both. Thus, as set out in paragraph 10 of the present judgment, the General Court reduced, in the judgment in <i>Total Raffinage Marketing v Commission</i> (T-566/08, EU:T:2013:423), the amount of the fine imposed on the subsidiary, Total France, to EUR 125459842.</p> <p>39. The application of the principles derived from that case-law of the courts of the European Union requires certain procedural requirements to be satisfied, inter alia the bringing of parallel applications having the same object by the subsidiary and its parent company (see judgment in <i>Commission v Tomkins</i>, C-286/11 P, EU:C:2013:29, point 49). The Court specified that the notion of the 'same object' does not require that the scope of the applications of those companies, and the arguments on which they relied, must be identical (see judgment in <i>Commission v Tomkins</i>, C-286/11 P, EU:C:2013:29, paragraph 43).</p> <p>40. In the present case, those requirements were satisfied. Like the parent company and the subsidiary at issue in the case giving rise to the judgment in <i>Commission v Tomkins</i> (C-286/11 P, EU:C:2013:29), both Total and Total France brought an application against the decision at issue and those applications had the same object in so far as they concerned, in particular, the duration of the infringement.</p> <p>41. Although the Court ruled, in the judgment in <i>Commission v Tomkins</i> (C-286/11 P, EU:C:2013:29), only on the possibility, in connection with an application brought by a parent company whose liability is derived entirely from that of its subsidiary, of having regard to the outcome of the subsidiary's application, it nevertheless follows from the case-law of the Court, in particular from the judgment in <i>Areva and Others v Commission</i> (C-247/11 P and C-253/11 P, EU:C:2014:257, paragraphs 136 to 138), that where the procedural requirements set out in the previous paragraphs are satisfied, a parent company whose liability is entirely derivative from that of its subsidiary must, in principle, benefit from any reduction in the liability of its subsidiary which had been imputed to it.</p> <p>42. Consequently, the General Court erred in law in not having regard to the outcome of the judgment in <i>Total Raffinage Marketing v Commission</i> (T-566/08, EU:T:2013:423)*.</p>

Table 2: Reversals of DG Comp Decisions Before the CJEU (1 Nov. 2014 to 30 Nov. 2024)

CJEU reference	URL to the CJEU judgment	EC decision legal basis	GC judgment	Outcome of CJEU judgment	Type of judgment	Comments
						<p>The Commission's economic analysis of the aid scheme was mistaken in its assumptions and comparisons.</p> <p>41. In particular, in paragraph 124 of the judgment under appeal, the General Court did not take into account, when interpreting recital 85 of the decision at issue, the fact that the Commission mainly called into question the price at which the guarantee was obtained, and not the possibility of obtaining a guarantee or a loan on the market, which is borne out by the subsequent reasoning based on the inadequacy of the price paid. In paragraph 125 of the judgment under appeal, the General Court wrongly held, in view of the content of recital 93(a) of the decision at issue, that the Commission had not indicated the market price in order to evaluate the premium at issue.</p> <p>57. In any event, as the Commission also submits, the FV merely stated that it did not know whether there were similar guarantees on the market, a statement which refers to 'a corresponding guarantee premium benchmark on the financial markets' and not to the existence of 'a market price for a similar non-guaranteed loan', the only one referred to in paragraph 137 of the judgment under appeal.</p> <p>58. In those circumstances, it cannot be held that paragraph 137 of the judgment under appeal reveals a distortion which is obvious from the documents in the file.</p> <p>62. Secondly, the complaint that the General Court wrongly held that the use of reference rates is comparable to a presumption also stems from a misreading of the judgment under appeal. As is apparent from paragraphs 132 to 134 of the judgment under appeal, the General Court did not consider that the use of reference rates is comparable to a presumption; it did, however, point out that the Commission had presumed, disregarding the Guarantee Notice, that no financial institution would act as guarantor for a firm in difficulty.</p> <p>63. In addition, it held, in paragraphs 135 to 137 of the judgment under appeal, that the Commission's assertion that the 'limited number of observations of similar transactions on the market' did not provide a meaningful comparison between, on the one hand, the interest rate of the loan actually applied thanks to the State guarantee plus the guarantee fee and, on the other hand, the interest rate that would have been applied to a loan without the State guarantee, was not substantiated to the requisite legal standard. Thus, the General Court merely took note, in paragraph 130 of the judgment under appeal, of the Commission's use of the reference rates without in any way describing such use as a 'presumption'.</p> <p>64. Thirdly, contrary to what the Commission claims, the Guarantee Notice does in fact provide for a hierarchy between the methods to be used to establish and quantify the aid element of a measure.</p> <p>78. In addition, the Commission is required, in the interests of sound administration of the fundamental rules of the TFEU relating to State aid, to conduct a diligent and impartial examination of the contested measures, so that it has at its disposal, when adopting the final decision, the most complete and reliable information possible for that purpose (judgment of 11 November 2021, <i>Autostrada Wielkopolska v Commission and Poland</i>, C-953/19 P, EU:C:2021:905, paragraph 114 and the case-law cited).</p> <p>79. The Commission cannot assume that an undertaking has benefited from an advantage constituting State aid solely on the basis of a negative presumption, based on a lack of information enabling the contrary to be found, if there is no other evidence capable of positively establishing the actual existence of such an advantage (judgment of 10 December 2020, <i>Comune di Milano v Commission</i>, C-160/19 P, EU:C:2020:1012, paragraph 111 and the case-law cited).</p> <p>89. The only explanation which emerges from the decision at issue regarding that approach is that the Commission considered that, for a firm in difficulty, there is no corresponding guarantee premium benchmark available on the financial markets.</p> <p>100. Since the Commission, by adopting the Guarantee Notice, committed itself to verifying whether there was a market price for a similar non-guaranteed loan, the General Court was entitled to take the view, without erring in law, that that institution was required, in circumstances such as those which emerge from the findings made in paragraphs 93 to 97 above, to go beyond a mere examination of the matters of fact and of law brought to its attention, for the purposes of the case-law referred to in paragraph 82 above, in response to the decision to initiate the formal investigation procedure.</p> <p>101. Contrary to what the Commission claims, the General Court did not, in that way, impose on it an excessive duty of care and an excessive burden of proof, but merely found that the Commission had not satisfied the requirements which it had imposed on itself by adopting that notice. It did not require the Commission to provide evidence that transactions of a similar nature could not be found on the market, but merely pointed out that the Commission had not substantiated its finding or availed itself of its power, in accordance with the case-law referred to in paragraph 84 above, to make a specific request to the Spanish authorities or the interested parties during the administrative procedure to obtain the production of relevant evidence for the purposes of the assessment to be carried out. In particular, the General Court did not rule out the possibility that it could have been sufficient for the Commission, in order to fulfil its duty of care and satisfy its burden of proof, to make such a specific request in the context of the exchanges referred to in paragraph 14 above."</p>
C-211/20 P Judgment ECLI:EU:C:2022:862 Commission v Valencia Club de Fútbol	https://eur-lex.europa.eu/legal-content/en/TXT/?uris=CELEX:62020CJ0211	Article 87 EC Treaty	Annulled the EC	Confirms the GC	SUBSTANTIAL	<p>The Commission failed to explicitly and clearly include relevant factual and legal elements in its decision to initiate the formal procedure in violation of the right of interested parties to participate in the administrative process.</p> <p>57. An incomplete summary of the relevant issues of fact and law does not in fact enable the interested parties to submit their comments on the grounds which led the Commission to initiate the formal investigation procedure and, consequently, ensure the effectiveness of Article 108(2) TFEU.</p> <p>58. Such a finding is not called into question by the case-law resulting from the judgment of 13 June 2019, <i>Copebi</i> (C-505/18, EU:C:2019:500), from which the Commission infers that there is no obligation to identify exactly, down to the smallest detail, the sources of financing of an aid measure in the opening decision. In fact, as the Advocate General observed in point 68 of his Opinion, in that judgment the two sources of financing of the measure at issue had been identified. In the present cases, what is complained of is that the Commission, in the opening decision, failed to identify a source of financing, from the general budget of the Land of Bavaria, of which it was already aware at that stage of the procedure, even though that factor is taken into account in the decision at issue and serves as the basis for assessments, including in particular that set out in recital 145 of that decision, cited in paragraph 17 above.</p> <p>59. The Court therefore did not err in law in the interpretation and application of Article 108(2) TFEU and Article 6(1) of Regulation No 659/1999 when it held, in paragraphs 68 and 69 of the first judgment under appeal and in paragraphs 65 and 66 of the second judgment under appeal, that, in the absence in the opening decision of a summary, as a relevant issue of fact and law, within the meaning of that latter provision, of the financing of the measure at issue by means of resources from the general budget of the Land of Bavaria, the decision at issue was adopted in a manner in which the Commission did not comply with its obligation to put the interested parties in a position to put forward their comments on that issue and, consequently, in breach of the right of those parties to be involved in the administrative procedure, as guaranteed by those provisions.</p> <p>80. It then inferred from that, in paragraph 58 of the first judgment under appeal and in paragraph 54 of the second judgment under appeal, that the interested parties could legitimately presume that the Commission's examination exclusively concerned the resources from the milk levy. In addition, in paragraphs 60 and 61 of the first judgment under appeal and in paragraphs 58 and 59 of the second judgment under appeal, the Court stated that, in the light of the requirements laid down in Article 6(1) of Regulation No 659/1999, even though the Commission is not required to present a complete analysis of the measure at issue, it could not argue that the opening decision could make no mention of the financing by means of resources from the general budget of the Land of Bavaria, since it is required to define sufficiently the framework of its investigation so as not to render meaningless the right of interested parties to submit their comments. It is thus apparent from the two judgments under appeal that the financing by means of resources from the general budget of the Land of Bavaria should have been expressly mentioned in the opening decision.</p> <p>81. Therefore, even if it might be possible to consider that the General Court did not respond exhaustively to all of the Commission's arguments seeking to demonstrate that that method of financing figured implicitly in the opening decision or could be inferred from that decision, it must be held that the judgments under appeal clearly and unequivocally disclose the General Court's reasoning, and enable the persons concerned to know the grounds of the General Court's decision and the Court of Justice to exercise its power of review, so that those judgments are not vitiated by any failure to state reasons.</p> <p>102. It follows from the foregoing that the Court was right, on the basis of paragraph 55 of the judgment of 11 December 2008, <i>Commission v Freistaat Sachsen</i> (C-334/07 P, EU:C:2008:709), to hold, in paragraph 70 of the first judgment under appeal and in paragraph 67 of the second judgment under appeal, that the obligation on the Commission to place the interested parties in a position, at the stage of the opening decision, to put forward their comments is in the nature of an essential procedural requirement, the infringement of which leads to the annulment of the defective act, irrespective of whether that infringement caused harm to the person pleading it or whether the administrative procedure might have led to a different result.</p> <p>109. In so far as the Court of Justice has held that the General Court was right to find, in paragraph 70 of the first judgment under appeal and in paragraph 67 of the second judgment under appeal, that the decision at issue, by failing to place the interested parties in a position to put forward their comments, infringed an essential procedural requirement which leads to the annulment by force of law of the defective act, the fourth ground of appeal must therefore be rejected as ineffective."</p>
C-167/19 P Judgment ECLI:EU:C:2022:176 Commission v Freistaat Bayern	https://eur-lex.europa.eu/legal-content/en/TXT/?uris=CELEX:62019CJ0167	Article 93 EC Treaty	Annulled the EC	Confirms the GC	PROCEDURAL	

Table 2: Reversals of DG Comp Decisions Before the CJEU (1 Nov. 2014 to 30 Nov. 2024)

CJEU reference	URL to the CJEU judgment	EC decision legal basis	GC judgment	Outcome of CJEU judgment	Type of judgment	Comments
C-425/19 P Judgment ECLI:EU:C:2021:154 Commission v Italy and Others	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0425	Article 96 TFEU	Annulled the EC	Confirms the GC	SUBSTANTIAL	<p>The Commission failed to demonstrate that a state aid scheme was attributable to the state.</p> <p>"26. In the first place, the General Court, in paragraphs 68, 69 and 89 to 91 of the judgment under appeal held, in essence, that in order to conclude that an aid measure is imputable to the State, there is an even more stringent requirement for the Commission to put forward sufficient evidence to demonstrate that the measure has been adopted under the actual influence or control of the public authorities, where a measure adopted by a private entity is involved, than where the measure is taken by a public undertaking. The General Court noted, in that regard, that unlike a situation in which a measure taken by a public undertaking is imputed to the State, the Commission cannot, in respect of a measure adopted by a private undertaking, merely establish that the absence of actual influence and control by the public authorities over that private entity is unlikely.</p> <p>72. Thus, contrary to the Commission's assertions, in a situation where, as in the present case, the entity that provided the aid is a private entity, the appropriate evidence for the purpose of demonstrating that the measure is imputable to the State differs from that required in a situation where the entity providing the aid is a public undertaking.</p> <p>75. Similarly, the Commission wrongly contended that the General Court held, in paragraph 116 of the judgment under appeal, that in order to establish that a measure adopted by a private entity is imputable to the State, the Commission must show that the involvement by the public authorities had an impact on that measure. As noted by the Advocate General in point 97 of his Opinion, the General Court, in that paragraph 116, did not examine whether, in practice, the intervention of the Bank of Italy had an impact on the content of the measures at issue, but merely stated that that national authority did not have the power to influence the content of the measures and that the Bank of Italy had the power only to check the measures' compliance with the regulatory framework, for the purposes of prudential supervision.</p> <p>84. In those circumstances, it must be held that, as is apparent from paragraph 132 of the judgment under appeal, it is on the basis of the analysis of all of the evidence on which the Commission relied, taken in its proper context, and therefore in a manner consistent with the case-law recalled in paragraph 60 above, that the General Court found that the Commission had erred in law in taking the view, in recital 133 of the decision at issue, that it had demonstrated that the Italian authorities had exercised substantial public control in establishing the measures adopted by the FITD for the benefit of Tercas.</p> <p>98. In those circumstances, contrary to the Commission's allegations, it is not manifestly apparent from the expression 'having regard to the protection of depositors and the stability of the banking system', in Article 96b(1)(d) of the TUB, that the Bank of Italy conducts a review of the appropriateness of measures adopted by the deposit guarantee schemes, such as the measures at issue, with the result that the Commission has not established that the General Court, in paragraph 116 of the judgment under appeal, distorted that provision by holding that the Bank of Italy checks only whether the intervention measures comply with the regulatory framework, for the purposes of prudential supervision.</p> <p>99. As regards the alleged distortion of Article 21 of the statutes of the FITD, it should be noted that the Commission's arguments are based on an incorrect reading of the judgment under appeal, in so far as, contrary to the Commission's assertion, the General Court did not hold, in paragraphs 153 and 154 of that judgment, that the financing of voluntary interventions differed from that of mandatory interventions.</p> <p>100. In examining the alleged mandatory nature of the contributions used by the FITD for the measures at issue, the General Court, in paragraph 153 of the judgment under appeal, as noted by the Advocate General in point 177 of his Opinion, merely held that, unlike the resources needed for the consortium to operate efficiently, those contributions were regarded as advances 'paid by the members of the FITD, which managed them on their behalf as agent'.</p> <p>101. Moreover, in paragraph 154 of the judgment under appeal, the General Court found that, as regards mandatory interventions, it was the obligation to contribute to the intervention measures, and not the means of financing the contributions, which stemmed from a – private – statutory provision, since the General Court stated that the obligation to intervene stems from a regulatory provision where the FITD is 'specifically mandated by the State to manage the contributions made by members under the statutory deposit guarantee'."</p> <p>The Commission failed to state reasons in setting the amount of each of the fines imposed.</p> <p>"201. By the second part of the sixth ground of appeal, Altice submits that paragraphs 297 to 362 of the judgment under appeal are vitiated by an error of law and infringe Article 296 TFEU and Article 41(2) of the Charter of Fundamental Rights of the European Union in that the General Court concluded that the decision at issue was adequately reasoned when imposing two distinct and cumulative fines of EUR 62250000 each for the infringements of Article 4(1) and Article 7(1) of Regulation No 139/2004 respectively.</p> <p>202. It is wrong in law and contradictory to consider, on the one hand, that the Commission may impose two separate fines on the ground that they are allegedly two separate infringements, while accepting, on the other hand, that the Commission assesses the two fines together as the penalised conduct is the same. It follows that there was a failure to state reasons in setting the amount of each of the fines imposed, which the General Court ought to have found.</p> <p>221. In the present case, it is true that, as the General Court found in paragraphs 319 to 323 of the judgment under appeal, the Commission set out in detail, in recitals 568 to 599 of the decision at issue, its assessments relating to the nature, gravity and duration of the two infringements committed by Altice and, thus, the factors taken into account for the purposes of determining the amount of the fines. It was in the light of all the circumstances thus recalled, as is apparent from recital 621 of that decision, that the Commission set the two fines at EUR 62250000 each.</p> <p>222. However, it is also apparent from the grounds of the decision at issue that, although the Commission considered that the two infringements were identical in nature and gravity, it also observed that they were different in terms of duration, one being an instantaneous infringement and the other a continuous infringement. It must be stated that the Commission has in no way explained why, in spite of that difference, the two infringements called for fines of the same amount. In other words, it did not explain why that difference, although significant, was not such as to justify a differentiation in the amount of the two fines.</p> <p>229. It must be observed that, before the General Court, Altice specifically submitted that the Commission could not impose fines of the same amount for infringements of a different duration. In that regard, the sole fact, even if true, that an instantaneous infringement and a continuous infringement cannot be compared as regards their duration is not capable of responding to that line of argument. In the light of Altice's arguments, the General Court was required to ascertain whether, given the instantaneous nature of the infringement of the obligation to notify, the fine imposed was proportionate. The General Court failed however to carry out that assessment by confining itself, in paragraph 343 of the judgment under appeal, to referring to the fact that the two infringements were not comparable.</p> <p>246. In those circumstances, a fair assessment of all the circumstances of the case will be made by setting the amount of the fine imposed on Altice for the infringement of Article 4(1) of Regulation No 139/2004, found in Article 2 of the decision at issue, at EUR 52912500. That amount appears to be proportionate in the light of the nature, gravity and duration of the infringement, while remaining sufficiently dissuasive."</p>
C-746/21 P Judgment ECLI:EU:C:2023:836 Altice Group Lux v Commission	https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62021CJ0746	Regulation (EC) No 139/2004	Confirmed the EC	Other (Sets aside points 1 and 2)	SUBSTANTIAL	<p>"201. By the second part of the sixth ground of appeal, Altice submits that paragraphs 297 to 362 of the judgment under appeal are vitiated by an error of law and infringe Article 296 TFEU and Article 41(2) of the Charter of Fundamental Rights of the European Union in that the General Court concluded that the decision at issue was adequately reasoned when imposing two distinct and cumulative fines of EUR 62250000 each for the infringements of Article 4(1) and Article 7(1) of Regulation No 139/2004 respectively.</p> <p>202. It is wrong in law and contradictory to consider, on the one hand, that the Commission may impose two separate fines on the ground that they are allegedly two separate infringements, while accepting, on the other hand, that the Commission assesses the two fines together as the penalised conduct is the same. It follows that there was a failure to state reasons in setting the amount of each of the fines imposed, which the General Court ought to have found.</p> <p>221. In the present case, it is true that, as the General Court found in paragraphs 319 to 323 of the judgment under appeal, the Commission set out in detail, in recitals 568 to 599 of the decision at issue, its assessments relating to the nature, gravity and duration of the two infringements committed by Altice and, thus, the factors taken into account for the purposes of determining the amount of the fines. It was in the light of all the circumstances thus recalled, as is apparent from recital 621 of that decision, that the Commission set the two fines at EUR 62250000 each.</p> <p>222. However, it is also apparent from the grounds of the decision at issue that, although the Commission considered that the two infringements were identical in nature and gravity, it also observed that they were different in terms of duration, one being an instantaneous infringement and the other a continuous infringement. It must be stated that the Commission has in no way explained why, in spite of that difference, the two infringements called for fines of the same amount. In other words, it did not explain why that difference, although significant, was not such as to justify a differentiation in the amount of the two fines.</p> <p>229. It must be observed that, before the General Court, Altice specifically submitted that the Commission could not impose fines of the same amount for infringements of a different duration. In that regard, the sole fact, even if true, that an instantaneous infringement and a continuous infringement cannot be compared as regards their duration is not capable of responding to that line of argument. In the light of Altice's arguments, the General Court was required to ascertain whether, given the instantaneous nature of the infringement of the obligation to notify, the fine imposed was proportionate. The General Court failed however to carry out that assessment by confining itself, in paragraph 343 of the judgment under appeal, to referring to the fact that the two infringements were not comparable.</p> <p>246. In those circumstances, a fair assessment of all the circumstances of the case will be made by setting the amount of the fine imposed on Altice for the infringement of Article 4(1) of Regulation No 139/2004, found in Article 2 of the decision at issue, at EUR 52912500. That amount appears to be proportionate in the light of the nature, gravity and duration of the infringement, while remaining sufficiently dissuasive."</p>

Table 2: Reversals of DG Comp Decisions Before the CJEU (1 Nov. 2014 to 30 Nov. 2024)

3.2. Discernable Patterns

Tables 1 and 2 comprise 1,555 entries that can serve a variety of analyses. In what follows, we discuss the main patterns in DG Comp-related cases before the CJEU, as well as its successes and failures.

Table 1. The CJEU reviewed 241 EC decisions during the course of Margrethe Vestager’s two mandates. Of these, 150 decisions were issued before she took office, with 25 (16.67%) resulting in the CJEU overturning at least part of the EC’s decision. The remaining 91 cases concerned EC decisions published during her tenure, with 25 (27.47%) leading to the CJEU overruling at least part of the EC’s decision.

To provide some comparative points, Margrethe Vestager’s DG Comp issued 99 ‘antitrust and cartels’ decisions over the course of her two mandates,⁵ 3,869 merger decisions,⁶ and 5,473 state aid decisions.⁷ Among the 241 EC decisions that were judged by the CJEU during the same period, 96 were strictly Article 101 TFEU-related (including 25 decisions published under Margrethe Vestager’s leadership),⁸ 11 were strictly Article 102-related (including 8 published during her tenure), and 15 combined Articles 101 and 102 (including two published during her leadership).⁹ Additionally, 111 were state aid-related, and only 7 concerned mergers (including four published during her tenure). This indicates that the likelihood of companies appealing antitrust cases is much higher than that of appealing merger and state aid decisions.

These trends in the types of cases brought before the CJEU are not surprising, given that merger and state aid decisions are often favorable to companies and states; the vast majority of them approve mergers and state aid measures. Additionally, companies frequently withdraw merger filings when they sense that approval is unlikely, thereby reducing related litigation. Even when companies face an unfavorable merger decision, they typically cannot afford to wait for a CJEU ruling, as the judicial process typically takes years. As for the disparity between Article 101 and Article 102 cases, it can – at least partially – be explained by the fact that Article 101 cases have the potential to lead a greater number of individual cases due to the number of companies impacted by these decisions, leading in turn to more complex analyses and increasing the likelihood of an appeal.

⁵ European Commission, Competition case search, ‘Antitrust & Cartels’, ‘01.11.2014 to 30.11.2024’. <https://perma.cc/6ZYH-38CN>. Note that 43 are “cartels” (i.e., collusive agreements), 61 are “antitrust” (i.e., abuses of dominance), with 5 of them being both.

⁶ European Commission, Competition case search, ‘Merger’, ‘01.11.2014 to 30.11.2024’. <https://perma.cc/SDN2-N7UC>.

⁷ European Commission, Competition case search, ‘State Aid’, ‘01.11.2014 to 30.11.2024’. <https://perma.cc/5CU2-RSCY>

⁸ For all these counts, we include past numbering of these articles, e.g., Article 81 EC Treaty.

⁹ This means that a total of 122 cases are antitrust related, as in 96 (Article 101), plus 11 (Article 102), plus 15 (Articles 101 and 102). This is more than the 99 decisions issued by Margrethe Vestager’s DG Comp during that period because 150 decisions were issued before she took office.

Taken together, these factors make the overall distribution of cases predictable. As for the rest, we acknowledge that some categories may generally involve less complex legal questions than others, but we refrain from basing our explanation on this due to the absence of consensus

Table 2. *Table 2* offers an account of all 50 CJEU judgments that overruled at least part of an EC decision. Taking a broad look at the case categories, we find 30 antitrust cases. In other words, the legal service representing the Commission in DG Comp matters has lost 24.6% of its antitrust cases that reached a CJEU judgment over the period.¹⁰

At a more granular level, 24 of these antitrust cases are Article 101-related, five involve both Article 101 and Article 102, and only one is a standalone Article 102 case.¹¹ This means that the EC almost never loses when the contested practice falls under Article 102. The same applies to merger control, as the EC lost only two cases. The Commission also lost 18 state aid cases during this period.

Focusing more specifically on decisions first issued during Margrethe Vestager's tenure at DG Comp, we find that at least 12 cases involving exclusively Article 101 were overturned, representing 50% of all Article 101 cases lost during her two mandates and 12.12% of all antitrust decisions she issued. Additionally, she lost 11 state aid cases, accounting for 61.11% of all state aid cases lost over the period. As for mergers, she lost two cases, representing 100% of the merger cases the legal service representing the Commission in DG Comp-related cases lost during this period, but only 0,05% of the merger decisions she issued.¹² Notably, she did not lose a single Article 102 case—neither among the eight cases that concerned exclusively Article 102 nor the two cases that involved both Articles 101 and 102

Examining these 50 cases based on the type of judgment (i.e., substantive or procedural), the CJEU overturned 10 competition law cases (Article 101 or 102) purely on substantive grounds, 15 purely on procedural grounds, and 5 on both grounds. For state aid cases, the CJEU overruled 16 purely on substantive grounds and only 2 purely on procedural grounds. This pattern may indicate a divergent legal doctrine within DG Comp, the legal service and the CJEU, a shift in case law, and/or vague concepts that required clarification.¹³

Delving deeper into cases focusing on substantive issues, we identify 32 such cases. Of these, 16 concern state aid, nine involve Article 101, only one deals strictly with Article 102,¹⁴ and one pertains to merger control.¹⁵

¹⁰ The legal service representing the Commission in DG Comp-related cases lost 30 antitrust cases out of 122 that reached a judgment by the CJEU.

¹¹ C-240/22 P Judgment ECLI:EU:C:2024:915 Commission v Intel Corporation.

¹² C-746/21 P Judgment, ECLI:EU:C:2023:836 Altice Group Lux v Commission; C-611/22 P Judgment ECLI:EU:C:2024:677 Illumina v Commission.

¹³ C-167/19 P Judgment ECLI:EU:C:2022:176 Commission v Freistaat Bayern; C-697/22 P Judgment ECLI:EU:C:2024:641 Koiviston Auto Helsinki v Commission

¹⁴ C-240/22 P Judgment ECLI:EU:C:2024:915 Commission v Intel Corporation.

¹⁵ C-746/21 P Judgment ECLI:EU:C:2023:836 Altice Group Lux v Commission.

Among these, 25 cases revolve around the materiality of the practice. This includes 17 state aid cases, such as *Commission v. Braesch*, which challenged an overly broad definition of 'party concerned' under Article 108 TFEU, and *Luxembourg v. Commission*,¹⁶ which addressed an expansive interpretation of tax benefits as state aid. Seven cases concerning Article 101 focused on the materiality of the infringement,¹⁷ while only four related to the calculation of fines.¹⁸ Overall, in state aid and cartel cases, the Commission's definition of relevant markets, competitive harm, or state aid criteria is frequently contested, suggesting that reversals based on substantive issues often stem from economic assessments. Only one of these material cases focuses exclusively on Article 102, highlighting the European Commission's strong track record in identifying and sanctioning abusive practices.¹⁹

Moreover, what does not appear in these results is also revealing: there is not a single antitrust case concerning novel theories of harm. This suggests either that the European Commission was not particularly bold in advancing novel theories or that the judges at the CJEU are not as conservative as they are sometimes portrayed.

Regarding procedural judgments, we count a total of 18 cases, to which we can add five cases that involve both substantive and procedural aspects. Of these 23 cases, 15 concern antitrust, all of which involve Article 101 to some extent. Two deal with state aid, and one pertains to merger control.²⁰ The vast majority of these cases involve violations of the rights of the defense by the European Commission. Specifically, eight cases concern the rights of defendants during investigations,²¹ five

¹⁶ C-284/21 P Judgment ECLI:EU:C:2023:58 *Commission v Braesch and Others*; C-451/21 P Judgment ECLI:EU:C:2023:948 *Luxembourg v Commission*.

¹⁷ C-201/19 P Judgment ECLI:EU:C:2024:552 *Servier and Others v Commission*; C-593/18 P Judgment ECLI:EU:C:2019:1027 *ABB v Commission*; C-700/19 P Judgment ECLI:EU:C:2022:484 *Toshiba Samsung Storage Technology and Toshiba Samsung Storage Technology Korea v Commission*; C-699/19 P Judgment ECLI:EU:C:2022:483 *Quanta Storage v Commission*; C-698/19 P Judgment ECLI:EU:C:2022:480 *Sony Optiarc and Sony Optiarc America v Commission*; C-697/19 P Judgment ECLI:EU:C:2022:478 *Sony Corporation and Sony Electronics v Commission*; C-607/18 P Judgment ECLI:EU:C:2020:385 *NKT Verwaltung and NKT v Commission*.

¹⁸ C-440/19 P Judgment ECLI:EU:C:2021:214 *Pometon v Commission*; C-603/13 P Judgment ECLI:EU:C:2016:38 *Galp Energia España and Others v Commission*; C-597/13 P Judgment ECLI:EU:C:2015:613 *Total v Commission*; C-746/21 P Judgment ECLI:EU:C:2023:836 *Altice Group Lux v Commission*.

¹⁹ C-240/22 P Judgment ECLI:EU:C:2024:915 *Commission v Intel Corporation*

²⁰ C-611/22 P Judgment ECLI:EU:C:2024:677 *Illumina v Commission*

²¹ C-690/20 P Judgment ECLI:EU:C:2023:171 *Casino, Guichard-Perrachon and Achats Marchandises Casino v Commission*; C-682/20 P Judgment ECLI:EU:C:2023:170 *Les Mousquetaires and ITM Entreprises v Commission*; C-89/15 P Judgment ECLI:EU:C:2017:713 *Riva Fire v Commission*; C-88/15 P Judgment ECLI:EU:C:2017:716 *Ferriere Nord v Commission*; C-86/15 P Judgment ECLI:EU:C:2017:717 *Ferriera Valsabbia and Valsabbia Investimenti v Commission*; C-85/15 P Judgment ECLI:EU:C:2017:709 *Feralpi v Commission*; C-697/22 P Judgment ECLI:EU:C:2024:641 *Koiviston Auto Helsinki v Commission*; C-162/15 P Judgment ECLI:EU:C:2017:205 *Evonik Degussa v Commission*.

address inconsistencies between the statement of objections and the final decision,²² two involve requests for information,²³ and two deal with inspections.²⁴

Here again, what is absent from our results is as telling as what is present: the European Commission did not lose a single case focusing solely on Article 102 for procedural reasons.

4. Summary

Our study provides an overview of all antitrust, merger, and state aid cases that were brought before the CJEU during Margrethe Vestager's two mandates. The main patterns are as follows:

Antitrust

1. Companies are significantly more likely to appeal antitrust decisions than merger or state aid decisions, with most of these cases concerning Article 101 TFEU.
2. To date, 12.12% of the antitrust first decisions issued under Margrethe Vestager's leadership have been at least partially overruled by the CJEU, with more cases likely to follow.
3. When an antitrust decision first issued by Margrethe Vestager reaches the CJEU, 27.47% have been at least partially overruled to date, with additional cases potentially to come.
4. None of the decisions initiated by Margrethe Vestager under Article 102 has been overruled by the CJEU to date.
5. When antitrust cases reach a judgment by the CJEU over the period of her two mandates (regardless of who issued the EC decision), the legal service representing the Commission in DG Comp matters has lost 24.6% of them over the period.
6. DG Comp lost only one case—*Intel*—focusing exclusively on Article 102 during Margrethe Vestager's two mandates, also regardless of who first issued the EC decision.
7. The EC loses more antitrust cases strictly on procedural rather than substantive grounds, with 15 losses on procedural grounds compared to 10 on substantive grounds.
8. Most of the antitrust cases Margrethe Vestager lost on substantive grounds during her tenure involved economic assessments.
9. Only four antitrust cases lost by the EC over the period involved disputes over the calculation of fines, indicating general judicial support for the EC's fine methodology.

²² C-700/19 P Judgment ECLI:EU:C:2022:484 Toshiba Samsung Storage Technology and Toshiba Samsung Storage Technology Korea v Commission; C-699/19 P Judgment ECLI:EU:C:2022:483 Quanta Storage v Commission; C-698/19 P Judgment ECLI:EU:C:2022:480 Sony Optiarc and Sony Optiarc America v Commission; C-697/19 P Judgment ECLI:EU:C:2022:478 Sony Corporation and Sony Electronics v Commission; C-607/18 P Judgment ECLI:EU:C:2020:385 NKT Verwaltung and NKT v Commission.

²³ C-268/14 P Judgment ECLI:EU:C:2016:152 Italmobiliare v Commission; C-247/14 P Judgment ECLI:EU:C:2016:149 HeidelbergCement v Commission.

²⁴ C-693/20 P Judgment ECLI:EU:C:2023:172 Intermarché Casino Achats v Commission; C-583/13 P Judgment ECLI:EU:C:2015:404 Deutsche Bahn and Others v Commission.

10. Throughout the period, the EC did not lose any antitrust case due to the introduction of novel theories of harm, which suggests either a conservative approach by the EC in bringing such cases or a less conservative judiciary than often perceived.
11. Most procedural losses in antitrust cases involved violations of defendants' rights during investigations, inconsistencies between the statement of objections and final decisions, and procedural issues in information requests and inspections.

State aid

1. In state aid cases, the majority of DG Comp's losses stem from substantive issues, potentially reflecting evolving case law, divergent legal doctrines, or the need for clearer legal definitions.
2. A significant number of substantive cases focus on the materiality of the practice, particularly overly broad interpretations of legal concepts such as 'party concerned' or tax benefits qualifying as state aid.

Merger control

1. Only seven merger cases reached the CJEU during the course of Margrethe Vestager's two mandates.
2. The legal service representing the Commission in DG Comp-related cases lost only two merger cases during that period.
3. The two merger cases that the legal service lost during the period involved decisions originally issued under Margrethe Vestager's leadership.
4. To date, only 0.05% of all merger decisions issued during her two mandates have been at least partially overruled by the CJEU.

We conclude by emphasizing that our key findings should be interpreted with caution, as our results present several limitations.

First, our database is not exhaustive. As demonstrated by the fact that some EC decisions published in the early 2010s only reached the CJEU during Margrethe Vestager's mandates, some of her own decisions will take several more years to be adjudicated. That said, we see no reason to believe that the patterns we have identified would change significantly for cases yet to be judged by the CJEU. Moreover, we chose to publish our study shortly after her departure to provide the next EU Commissioner for Competition with useful data.

Second, our study does not include judgments from the European General Court. This is a limitation, as some cases conclude at that level without ever reaching the CJEU. This likely benefits the European Commission in the data we expose, as the institution tends to appeal adverse General Court rulings more systematically than companies do. That being said, the vast majority of significant cases ultimately make their way to the CJEU, which supports the validity of our findings.

Third, we did not conduct a detailed, case-by-case analysis of all 241 cases that reached the CJEU. As a result, our analysis primarily highlights patterns in cases the European Commission lost, without providing comparative background on cases it won. The Commission's strong performance in certain areas of competition law could temper some of the trends we identified. For example, the validation of most Article 101 cases could mitigate our finding that the EC lost most of its Article 101 cases on the materiality of the practice. Likewise, if the CJEU upheld most procedural decisions, this could provide context for our observation that the EC frequently loses cases on procedural grounds during investigations. Nonetheless, we hope that our study remains valuable in demonstrating the likelihood of companies prevailing once a case reaches the CJEU and, when they do win, identifying the most successful legal arguments in absolute terms.

Fourth, and finally, we do not have comparable data on previous EU Commissioners for Competition. Our study lacks a historical perspective that might provide a clearer view of the changes implemented under Margrethe Vestager's leadership.

These limitations should be addressed in future research. For now, we trust that our findings offer an initial, objective basis for analyzing Margrethe Vestager's successes and failures and, more importantly, for learning from them.