

WHITE & CASE SUCCESSFUL BEFORE THE EU'S GENERAL COURT IN SYNTHETIC RUBBER CARTEL CASE

Warsaw, July 14, 2011 - Global law firm White & Case was successful yesterday before the European Union's ("EU") General Court in the high profile synthetic rubber cartel case against clients Unipetrol a.s. and Synthos Kralupy a.s. (formerly, Kaučuk a.s.). The EU's General Court has annulled the European Commission's infringement decision against the companies, and has overturned in their entirety, the fines imposed on them.

In 2006, the Commission imposed fines on thirteen companies for their alleged participation in a cartel for synthetic rubber, primarily used in tyre production. Unipetrol and its then-subsubsidiary, Kaučuk, were fined €17.55 million for their alleged participation in the cartel through Kaučuk's agent, Tavorex.

"This judgment appears to suggest that the tide may be turning for litigants before the EU's courts, as it demonstrates that the General Court is prepared to roll up its sleeves and review the facts in cartel cases," said White & Case partner, Mark Powell, who pleaded the case before the Court. "A more rigorous judicial review of Commission cartel decisions is to be welcomed and can only enhance the credibility of the European system as a whole."

In a concise judgment, the Court dismissed the Commission's evidential assessment that Tavorex had participated in the cartel. According to the Court, the companies' submissions cast doubt over the Commission's case, which must operate to the advantage of the accused. White & Case had introduced arguments and evidence that undermined the Commission's allegations that Tavorex had been present at key meetings at which the cartel arrangements were discussed. The Court therefore concluded that, "the evidence ... which relates to cartel meetings is not sufficient to support the conclusion that the undertaking participated in the unlawful agreements at issue," and that, "the Commission erred in finding that Tavorex (and thus Kaučuk / Unipetrol) participated in the cartel".

The Court's judgment annuls the Commission's decision in its entirety as regards Unipetrol and Kaučuk, not only overturning the fine, but also the finding of liability for a breach of the EU competition rules. The annulment of a Commission decision on the grounds of the Commission's evidentiary assessment is virtually unheard of in EU competition law, and has significant consequences. This is not least because the Commission's decision is the basis for

a long-running private damages action brought before the High Court in London by leading tyre manufacturers against those parties previously found by the Commission to have participated in the cartel.

This is White & Case's second victory before the EU's General Court in as many days, having successfully overturned the entire fine imposed upon Toshiba for its alleged participation in a cartel for gas insulated switchgear.

The White & Case teams conducting the appeals for Unipetrol and Kaučuk were led by partner Mark Powell, and associates Katarzyna Czapracka and Morris Schonberg in Brussels, along with partner Ivo Janda in Prague. A team in London, led by partner John Reynolds and associate Charles Balmain, is defending the private damages claim.

About White & Case

White & Case LLP is a leading global law firm with lawyers in 36 offices in 25 countries. Among the first US-based law firms to establish a truly global presence, we provide counsel and representation in virtually every area of law that affects cross-border business. Our clients value both the breadth of our global network and the depth of our US, English and local law capabilities in each of our regions and rely on us for their complex cross-border transactions, as well as their representation in arbitration and litigation proceedings.

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