



Press and Information

General Court of the European Union
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Judgment in Case T-141/08
E.ON Energie v Commission

The General Court confirms the €38 million fine imposed on E.ON Energie for breaking a seal affixed to an office of that company by the Commission during an inspection

EU law provides that the Commission can impose fines on companies of up to 1% of their turnover for breaking, either deliberately or negligently, seals affixed by the Commission during an inspection.

During an investigation into alleged anti-competitive practices on the German electricity market, in May 2006 the Commission carried out inspections at the Munich premises of E.ON Energie AG, a wholly-owned subsidiary of E.ON AG. Being unable to complete the inspection in a single day, documents which had been selected for a more detailed examination were placed in a room made available to the Commission by E.ON Energie. The door to this room was locked and an official seal of the Commission was affixed to it. The key to the door was taken by the inspectors. Later, however, it became apparent that 20 other “master keys”, which would open the door to the room, were also in circulation.

The Commission’s seals are plastic stickers. If they are removed they do not tear but the word “VOID” irreversibly appears on its surface. When the inspection team returned to the premises on the morning of the second day, it was noticed that the word “VOID” was visible on the seal that had been affixed the previous evening.

By a decision dated 30 January 2008, the Commission imposed a fine of €38 million on E.ON Energie for having broken the seal affixed during this inspection.

E.ON Energie brought an action before the General Court requesting the Commission’s decision be annulled, or at least that the fine be reduced.

In today’s judgment, the General Court has rejected the application, ruling that the Commission was entitled in law to consider in the present case that, at the very least, the seal had been negligently broken. E.ON Energie was required to take all necessary measures to prevent any tampering with the seal, having been clearly informed of the significance of the seal and the consequences of any breach.

The General Court has also ruled that the fine imposed on E.ON Energie, which amounts to approximately 0.14 % of its turnover, is not disproportionate to the infringement given the particularly serious nature of breaking a seal, the size of the company as well as the need to ensure a sufficiently dissuasive effect of the fine so as to ensure that it is not advantageous for a company to break a seal affixed by the Commission during its inspections.

NOTE: An appeal, limited to points of law only, may be brought before the Court of Justice against the decision of the General Court within two months of notification of the decision.

NOTE: An action for annulment seeks the annulment of acts of the institutions of the European Union that are contrary to European Union law. The Member States, the European institutions and individuals may, under certain conditions, bring an action for annulment before the Court of Justice or the General Court. If

the action is well founded, the act is annulled. The institution concerned must fill any legal vacuum created by the annulment of the act.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery

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