



Press and Information

General Court of the European Union
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Judgment in Case T-201/11
Si.mobil telekomunikacijske storitve v Commission

For the first time the General Court rules on the Commission's rejection of a complaint on the ground that the competition authority of a Member State is already dealing with the case

The General Court considers that the Commission was entitled to reject Si.mobil's complaint that Mobitel had forced its competitors out of the Slovenian mobile telephone market

Si.mobil telekomunikacijske storitve is a Slovenian company which operates in the mobile telephone sector and is wholly owned by Telekom Austria Group. Mobitel telekomunikacijske storitve was the historical operator on the mobile telephone market in Slovenia before being taken over by Telekom Slovenije, a company in which the Slovenian State has a majority shareholding.

In 2009, Si.mobil lodged a complaint with the Commission criticising Mobitel's alleged strategy of ousting its competitors on the retail mobile telephone market and the wholesale mobile access and call origination services market. By decision of 2011,¹ the Commission rejected Si.mobil's complaint on the ground that, as regards the retail mobile telephone market, the Slovenian competition authority was already dealing with the case and that, as regards the wholesale mobile access and call origination services market, there was not a sufficient degree of EU interest in conducting a further investigation of the case.

By today's judgment, **the General Court upholds the rejection of Si.mobil's complaint. On this occasion, the Court is interpreting for the first time a provision included in Regulation (EC) No 1/2003 in order to ensure that cases are dealt with by the most appropriate authorities within the European Competition Network.**²

With regard, first of all, to **the retail mobile telephone market**, the Court observes that, under EU law, **the Commission may reject a complaint where a competition authority of a Member State is already dealing with the case.** For that purpose, the Commission must be satisfied, on the one hand, that a competition authority of a Member State is dealing with the case that has been referred to the Commission (first condition) and, on the other, that the case relates to the same agreement, decision of an association, or practice (second condition). Provided those two conditions are fulfilled, EU law does not lay down any rules on the allocation of powers as between the Commission and the competition authorities of the Member States, so that Si.mobil did not have a right to have the case dealt with by the Commission.

As regards the first condition, the Court finds that, as the Slovenian competition authority was already actively dealing with the case, the Commission was not required to carry out an assessment as to whether the approach adopted by that authority was well founded. As regards the second condition, the Court reaches the same conclusion as that of the Commission, namely that the procedure before the Slovenian competition authority concerned the same infringements, on the same market, within the same timeframe as those referred to on the retail market in the complaint submitted to the Commission by Si.mobil.

¹ Decision C(2011) 355 final of 24 January 2011 (Case COMP/39.707 – Si.mobil/Mobitel)

² Recital 18 and Article 13(1) of Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 [EC] and 82 [EC] (OJ 2003 L 1, p. 1).

In so far as concerns **the wholesale mobile access and call origination services market**, the Court rejects Si.mobil's arguments, sharing the Commission's view that **there was not a sufficient degree of EU interest in conducting a further investigation of the case**.

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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