

Case T-410/03

Hoechst AG

v

Commission of the European Communities

(Application to intervene — Interest in the result of the case — Cartel)

Order of the Court of First Instance (Fifth Chamber), 16 December 2004 . . . II - 4453

Summary of the Order

Procedure — Intervention — Conditions of admissibility — Interest in the result of the case — Action relating to the annulment of a Commission decision finding an infringement of Article 81(1) EC — Action limited to annulment or reduction of the fines imposed on the applicant — Total immunity from fines of the applicant in intervention not called into question — No interest

(Statute of the Court of Justice, Arts 40, second para., and 53, first para.)

The concept of an interest in the result of the case, within the meaning of the second paragraph of Article 40 of the Statute of the Court of Justice, which applies to proceedings before the Court of First Instance by virtue of the first paragraph of Article 53 of that Statute, must be defined in the light of the precise subject-matter of the dispute and be understood as meaning a direct, existing interest in the ruling on the forms of order sought and not as an interest in relation to the pleas in law or arguments put forward. The expression 'result' is to be understood as meaning the operative part of the final judgment which the parties ask the Court to deliver. It is necessary, in particular, to ascertain whether the intervener is directly affected by the contested act and whether its interest in the result of the case is established. In that context, it is necessary to distinguish between prospective interveners establishing a direct interest in the ruling on the specific act whose annulment is sought and those who can establish only an indirect interest in the result of the case by reason of similarities between their situation and that of one of the parties.

An undertaking which has participated in a cartel but which the Commission has granted total immunity for having been the first to provide decisive evidence in the investigation does not have a direct, existing interest in the case of an action for annulment brought by another participant in the cartel against the same Commission decision on the ground that the decision imposes a fine on that other participant for its participation and in which it claims to have been the first to cooperate. As the provisions of the decision granting total immunity to the applicant in intervention are not the subject-matter of the main proceedings, a judgment which annuls or varies the decision with regard to the applicant in the main proceedings would not affect the provisions of the decision concerning the applicant in intervention.

(see paras 14, 19, 22)