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ECJ upholds annulment of anti-trust fine imposed on HSBC Group

According to the European Court of Justice (ECJ) the major British bank HSBC does not have to pay a substantial fine imposed by the Commission in 2016 regarding an infringement of competition law. The possibility of a slightly smaller fine, on the other hand, is still real. In its judgment the ECJ nevertheless confirmed that HSBC had participated in a single and continuous infringement consisting of restricting or distorting competition in the Euro Interest Rate Derivatives (EIRD) sector.

Background

In December 2016, the Commission found that HSBC and two other major banks had participated in a single and continuous infringement consisting of restricting or distorting competition in the EIRD sector. For that reason, the Commission imposed a fine of € 33 606 000 on HSBC.

By its **judgment of 24 September 2019**, the General Court of the European Union largely upheld the Commission's finding that HSBC had participated in an infringement of competition law. However, it annulled the fine imposed for want of sufficient reasons.

ECJ decision

The ECJ, in its current judgment, sets aside the General Court's earlier judgment in so far as the action brought by HSBC Holdings plc was dismissed. However, the earlier judgment of the General Court stands in so far as it has annulled the fine of € 33 606 000 imposed by the Commission on the HSBC Group.

Outlook

HSBC does currently not have to pay the fine. However, the Commission meanwhile has re-calculated the amount of the fine, which is now only slightly lower than the € 33.6 million determined in the first place. HSBC has again appealed this decision before the European General Court (pending case T-561/21).

Source

ECJ judgment of 12 December 2023 **C-883/19 P** *HSBC Holdings and Others v Commission*

A summary of the decision to be found in the ECJ's **Press Release No. 8/23**.

Keywords

fine