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SODIŠČE EVROPSKE UNIJE
EUROOPAN UNIONIN TUOMIOISTUIN
EUROPEISKA UNIONENS DOMSTOL

JUDGMENT OF THE COURT (Tenth Chamber)

15 January 2026 *

(Reference for a preliminary ruling – Competition – Article 101 TFEU – Prohibition of restrictive practices – Procedures for infringement of the rules of competition law conducted by the national competition authorities – Compliance with a reasonable time limit – Time limit for closure of the investigation stage of the infringement proceedings – National legislation allowing the national competition authority unilaterally to postpone that time limit on account of circumstances which lead to an extension of the subject matter of those proceedings or of the number of undertakings concerned – General principle of the right to good administration – Article 47 of the Charter of Fundamental Rights of the European Union – Principle of effective judicial protection – Rights of defence of undertakings – Principle of effectiveness)

In Case C-588/24,

REQUEST for a preliminary ruling under Article 267 TFEU from the Consiglio di Stato (Council of State, Italy), made by decision of 26 August 2024, received at the Court on 10 September 2024, in the proceedings

Imballaggi Piemontesi Srl

v

Autorità Garante della Concorrenza e del Mercato (AGCM),

intervening parties:

DS Smith Holding Italia SpA,

Associazione Italiana Scatolifici (ACIS),

THE COURT (Tenth Chamber),

* Language of the case: Italian.

composed of J. Passer, President of the Chamber, M.L. Arastey Sahún (Rapporteur), President of the Fifth Chamber, and D. Gratsias, Judge,

Advocate General: A. Rantos,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

– Imballaggi Piemontesi Srl, by E.R. Desana, M.E. Musumeci and T.S. Musumeci, avvocati,

– the Autorità Garante della Concorrenza e del Mercato (AGCM), by P. Gentili, avvocato dello Stato,

– the Italian Government, by S. Fiorentino, acting as Agent, and by A. Jacoangeli and L. Reali, avvocati dello Stato,

– the Greek Government, by K. Boskovits, acting as Agent,

– the Portuguese Government, by C. Alves, P. Barros da Costa and A. Nogueira, acting as Agents,

– the European Commission, by E. Rousseva and P. Tomassi, acting as Agents,

having decided, after hearing the Advocate General, to proceed to judgment without an Opinion,

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Articles 41 and 47 of the Charter of Fundamental Rights of the European Union (‘the Charter’) and Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950 (ECHR).

2 The request has been made in proceedings between Imballaggi Piemontesi Srl and the Autorità Garante della Concorrenza e del Mercato (AGCM) (the national competition authority, Italy) concerning the penalties imposed by the AGCM on Imballaggi Piemontesi in respect of an anticompetitive agreement.

Legal context

European Union law

TFEU

3 Under Article 101(1) TFEU:

‘The following shall be prohibited as incompatible with the internal market: all agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the internal market, and in particular those which …’

The Charter

4 Article 41 of the Charter, entitled ‘Right to good administration’, provides:

‘1. Every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions, bodies, offices and agencies of the [European] Union.

2. This right includes:

(a) the right of every person to be heard, before any individual measure which would affect him or her adversely is taken;

…

(c) the obligation of the administration to give reasons for its decisions.

…’

5 Article 47 of the Charter, entitled ‘Right to an effective remedy and to a fair trial’, states:

‘Everyone whose rights and freedoms guaranteed by the law of the Union are violated has the right to an effective remedy before a tribunal in compliance with the conditions laid down in this Article.

Everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal previously established by law …

…’

Italian law

Law No 287/90

6 Article 1 of legge n. 287 – Norme per la tutela della concorrenza e del mercato (Law No 287 adopting provisions for the protection of competition and the market) of 10 October 1990 (GURI No 240 of 13 October 1990, p. 3), in the version applicable to the dispute in the main proceedings ('Law No 287/90'), entitled 'Scope and relationship with [EU] law', provides, in paragraph 4 thereof:

'The provisions in this Title shall be interpreted in accordance with the principles laid down in the competition law [of the European Union].'

7 Article 12 of that law, entitled 'Powers of investigation', provides in paragraph 1-*quater* thereof:

'Proceedings relating to infringements of Articles 101 or 102 TFEU or of Articles 2 or 3 of this law, including the exercise by the [AGCM] of the powers referred to in this Chapter II, shall observe the general principles of EU law and the [Charter].'

8 Article 14 of that law, entitled 'Investigation', states in paragraph 1 thereof:

'In the event of an alleged infringement of Articles 101 or 102 TFEU or Articles 2 or 3 of this law, the [AGCM] shall carry out the investigation within a reasonable time and notify the undertakings and entities concerned of the initiation of an investigation. The owners or legal representatives of undertakings and entities shall have the right to be heard, either in person or through a special power of attorney, within the time limit set at the time of the notification and shall be able to submit observations and opinions at any stage of the investigation, and to be heard again before its closure.'

Decree of the President of the Republic No 217/98

9 Article 6 of the decreto del Presidente della Repubblica n. 217 – Regolamento recante norme in materia di procedure istruttorie di competenza dell'Autorità garante della concorrenza e del mercato (Decree of the President of the Republic No 217 on rules governing investigation procedures within the competence of the national competition authority) of 30 April 1998 (GURI No 158 of 9 July 1998), in the version applicable to the dispute in the main proceedings ('Presidential Decree No 217/98'), entitled 'Initiation of investigations', provides in paragraph 3 thereof:

'The decision to initiate the investigation must state the essential elements of the alleged infringements, the time limit for closure of the procedure, the person responsible for the procedure, the department in which the measures of the procedure may be consulted, and the period within which the undertakings and

entities concerned may exercise the right to be heard referred to in Article 14(1) of [Law No 287/90].'

The dispute in the main proceedings and the question referred for a preliminary ruling

10 By decision of 22 March 2017, the AGCM commenced the investigation stage of an infringement procedure, under Article 14 of Law No 287/90 ('the investigation procedure at issue'), in respect of 19 companies, including Imballaggi Piemontesi, with a view to establishing possible infringements of Article 101 TFEU on account of their participation in an alleged cartel on the market for corrugated cardboard sheets, designated as the 'corrugated cardboard cartel'. That decision set the time limit for closure of that investigation procedure at 31 May 2018.

11 By decision of 5 July 2017, that investigation procedure was extended to three other companies on account of their participation in that alleged cartel, and to four companies, including Imballaggi Piemontesi, on account of their participation in another alleged cartel on the packaging market, designated as the 'packaging cartel', in breach of Article 101 TFEU.

12 By decision of 5 December 2017, the investigation procedure at issue was further extended to two other companies on account of their participation in the alleged corrugated cardboard cartel and to eight other companies on account of their participation in the alleged packaging cartel.

13 By decision of 31 January 2018, the time limit for closure of that investigation procedure, initially set at 31 May 2018, was postponed until 31 December 2018.

14 By decision of 9 May 2018, the investigation procedure at issue was extended to four other companies on account of their participation in the alleged corrugated cardboard cartel and to two other companies on account of their participation in the alleged packaging cartel.

15 By decision of 31 October 2018, first, that investigation procedure was again extended to three other companies on account of their participation in the alleged corrugated cardboard cartel and to six other companies on account of their participation in the alleged packaging cartel.

16 Second, the subject matter of that investigation procedure was also extended to establishing, (i) possible conduct aimed at limiting or controlling the production of corrugated cardboard sheets, (ii) a concerted definition of the price list for 2004 and, (iii) as regards the market for packaging, an allocation of customers in the context of any calls for tenders launched by those customers, in breach of Article 101 TFEU.

17 Lastly, again by that decision of 31 October 2018, the time limit for closure of the same investigation procedure was postponed for the second time and set at 19 July 2019.

18 The decision closing the investigation procedure at issue was adopted on 17 July 2019. By that decision, the AGCM found that Imballaggi Piemontesi had participated in the corrugated cardboard cartel and imposed a fine of EUR 6 147 746 on that company.

19 By judgment of 24 May 2021, the Tribunale amministrativo regionale per il Lazio (Regional Administrative Court, Lazio, Italy) dismissed the action of Imballaggi Piemontesi against that decision.

20 That company brought an appeal against that judgment before the Consiglio di Stato (Council of State, Italy), which, by judgment of 1 March 2023, upheld that appeal in part and upheld the action at first instance, but only concerning the amount of the fine.

21 Imballaggi Piemontesi brought an action before that same court seeking the revision of the judgment of 1 March 2023. It was in the context of that action that the Consiglio di Stato (Council of State), which is the referring court, submitted the present reference for a preliminary ruling.

22 The referring court notes that the investigation procedure at issue was of exceptional complexity, given that it concerned the finding of two cartels contrary to Article 101 TFEU, namely the corrugated cardboard cartel and the packaging cartel, and that both the number of undertakings concerned by that investigation procedure and the subject matter of that procedure were broadened over time. Consequently, the time limit for closure had to be postponed twice in order, first, to ensure the proper and effective exercise of the AGCM's statutory duties intended to protect free competition under Articles 101 and 102 TFEU and, second, to guarantee the rights of the defence both of the undertakings initially covered by that investigation procedure and of those to which it was extended.

23 That court states that no provision of EU or national law lays down a mandatory time limit in respect of the closure of administrative procedures seeking to establish the existence of an anticompetitive agreement.

24 As regards national law, the maximum duration of the investigation procedure is not regulated on a fixed basis. Article 6(3) of Presidential Decree No 217/98 provides that the decision to initiate the investigation must state, inter alia, the time limit for closure of the investigation procedure, thus attributing a discretion to the AGCM allowing it to set a time limit wholly autonomously, depending on the complexity of each procedure.

25 The referring court is uncertain whether the time limit for closure indicated in the decision to commence the investigation must be regarded as mandatory or whether, as that court is inclined to find, the AGCM must be able unilaterally to

postpone that time limit, by reasoned decision, where circumstances arise which make the investigation more complex than that authority had initially envisaged.

26 In that regard, the referring court notes, first, that Article 6(3) of Presidential Decree No 217/98 does not classify as mandatory the time limit for closure of the procedure.

27 Secondly, it is appropriate to concur with the case-law resulting from the judgment of the Consiglio di Stato (Council of State) of 29 May 2018, according to which, just as the AGCM has the power to determine independently, on a case-by-case basis, the necessary time limit in order to close the investigation procedure, it also has the power to redefine the duration of that procedure during the investigation, provided that it does so before the expiry of the time limit for closure that was initially set and that it does so by a duly reasoned decision.

28 In certain judgments, the Consiglio di Stato (Council of State) found, concerning procedures conducted by other national supervisory and control authorities, that the time limits for closure laid down by the national legislation applicable to each of those authorities are mandatory. The referring court states, however, that that is not the case with the procedures conducted by the AGCM in competition matters, in respect of which Presidential Decree No 217/98 does not provide for a time limit within which the investigation procedure must be closed, but leaves the setting of that time limit to the assessment of the AGCM depending on the complexity of each case.

29 Thirdly, the referring court refers to paragraph 28 of the judgment of 28 February 2013, *Review of Arango Jaramillo and Others* v *EIB* (C-334/12 RX-II, EU:C:2013:134), from which it is apparent that, where the duration of a procedure is not set by a provision of EU law, the 'reasonableness' of the period of time taken by the institution to adopt a measure at issue is to be appraised in the light of all of the circumstances specific to each case and, in particular, the importance of the case for the person concerned, its complexity and the conduct of the parties to the case. The Court observed, in paragraph 29 of that judgment, that the reasonableness of a period cannot be determined by reference to a precise maximum limit determined in an abstract manner but, rather, must be appraised in the light of the specific circumstances of each case.

30 In addition, the referring court notes that it is apparent from paragraph 105 of the judgment of the General Court of 27 June 2012, *Bolloré* v *Commission* (T-372/10, EU:T:2012:325), first, that the fact of exceeding a reasonable time can constitute a ground for annulment of a decision establishing infringements only where it is established that the breach of that principle adversely affected the rights of defence of the undertakings concerned and, second, that, other than in that specific situation, failure to observe the duty to deal with the matter within a reasonable time has no effect on the validity of the administrative procedure.

31 In that context, the undertakings concerned are required to demonstrate in a sufficiently precise manner that they experienced difficulties in defending themselves against the European Commission's claims, specifying the documents or testimonies they could no longer obtain and the reasons why that was capable of undermining their defence.

32 The referring court states that, in the present case, there is no doubt that Imballaggi Piemontesi has not demonstrated how the postponement of the time limit for closure of the investigation procedure at issue adversely affected the exercise of its rights of defence. On the contrary, that postponement was decided in order to enable the exchange of views and arguments with the undertakings concerned and, consequently, the full exercise of their rights of defence in connection with the subjective and objective extension of that procedure, namely new circumstances arising during that procedure. The referring court thus concurs with the AGCM, which takes the view that prohibiting the postponement of the time limit for closure that was initially provided for would, in cases of such complexity, give rise to a systemic risk that conduct amounting to infringements of EU competition law would go unpunished, which would undermine the principle of effectiveness.

33 By way of conclusion, that court states that, even if it were necessary to consider that the time limit for closure of the investigation procedure set by the AGCM in the statement of objections is mandatory, that authority would be deprived only of its power to impose penalties, but not of its 'enforcement power', namely the power to establish that the cartel exists and to prohibit the undertakings concerned from adopting similar conduct in the future.

34 In those circumstances, the Consiglio di Stato (Council of State) decided to stay the proceedings and to refer the following question to the Court of Justice for a preliminary ruling:

'Do Articles 41 and 47 of the [Charter] and Article [6 ECHR] preclude rules such as national rules which, in the area of the monitoring of agreements restricting competition, for the purposes of the exercise of powers to impose penalties and without prejudice to the exercise of the enforcement powers, do not expressly provide that the time period for concluding proceedings set by the [AGCM] in the statement of objections is mandatory, allowing that authority to extend that time period unilaterally, by justified extension measures, when circumstances arise that call for an objective or subjective extension of the assessment?'

Consideration of the question referred

35 As a preliminary point, it should be borne in mind that, according to settled case-law, in the procedure laid down by Article 267 TFEU providing for cooperation between national courts and the Court of Justice, it is for the latter to provide the referring court with an answer which will be of use to it and enable it to determine the case before it (judgment of 17 July 1997, *Krüger*, C-334/95, EU:C:1997:378,

paragraph 22). To that end, the Court should, where necessary, reformulate the questions referred to it (see judgments of 28 November 2000, *Roquette Frères*, C-88/99, EU:C:2000:652, paragraph 18, and of 4 September 2025, *C.J. (Enforcement of a sentence further to an EAW)*, C-305/22, EU:C:2025:665, paragraph 88).

36 In the first place, it should be noted that, in the present case, the referring court identifies Articles 41 and 47 of the Charter as provisions of EU law, which, in its view, require an interpretation.

37 In that regard, it must be borne in mind that the scope of the Charter, in so far as the action of the Member States is concerned, is defined in Article 51(1) thereof, according to which the provisions of the Charter are addressed to the Member States when they are implementing EU law. That provision confirms settled case-law, which states that the fundamental rights guaranteed in the legal order of the European Union are applicable in all situations governed by EU law, but not outside such situations (see judgments of 26 February 2013, *Åkerberg Fransson*, C-617/10, EU:C:2013:105, paragraph 19, and of 6 March 2025, *D.K. (Withdrawal of cases from a judge)*, C-647/21 and C-648/21, EU:C:2025:143, paragraph 38).

38 It is apparent from the request for a preliminary ruling that the dispute in the main proceedings concerns national legislation relating to the time limits applicable to the investigation stage of a procedure conducted by a national competition authority for the enforcement of EU competition law, and more specifically Article 101 TFEU.

39 In those circumstances, the national legislation at issue in the main proceedings constitutes an implementation of EU law for the purposes of Article 51(1) of the Charter. The latter is therefore applicable to the dispute in the main proceedings.

40 In the second place, since the question referred for a preliminary ruling also refers to Article 6 ECHR, it should be borne in mind that although, as Article 6(3) TEU confirms, the fundamental rights enshrined in the ECHR constitute general principles of EU law and although Article 52(3) of the Charter provides that the rights contained in the Charter which correspond to rights guaranteed by the ECHR are to have the same meaning and scope as those laid down by that convention, the latter does not constitute, as long as the European Union has not acceded to it, a legal instrument which has been formally incorporated into EU law (judgment of 18 April 2024, *Préfet du Gers et Institut national de la statistique et des études économiques*, C-716/22, EU:C:2024:339, paragraph 50 and the case-law cited).

41 In those circumstances, the Court has held that the interpretation of EU law and examination of the legality of EU legislation must be undertaken in the light of the fundamental rights guaranteed by the Charter (judgment of 18 April 2024, *Préfet du Gers et Institut national de la statistique et des études économiques*, C-716/22, EU:C:2024:339, paragraph 51 and the case-law cited).

42 The principle of effective judicial protection is a general principle of EU law, which is now set out in Article 47 of the Charter. Article 47 secures in EU law the protection afforded by Article 6(1) and Article 13 of the ECHR. It is necessary, therefore, to refer only to Article 47 (judgment of 16 May 2017, *Berlioz Investment Fund*, C-682/15, EU:C:2017:373, paragraph 54 and the case-law cited).

43 In the third place, as regards Article 41 of the Charter, it should be recalled that it is clear from the wording of that provision that it is addressed not to the Member States but solely to the institutions, bodies, offices and agencies of the European Union (judgment of 22 September 2022, *Országos Idegenrendészeti Főigazgatóság and Others*, C-159/21, EU:C:2022:708, paragraph 34 and the case-law cited).

44 However, in so far as the referring court raises the issue of compliance with a reasonable time limit in proceedings under EU competition law conducted by the national competition authorities, it must also be borne in mind that the right to good administration, enshrined in Article 41 of the Charter, reflects a general principle of EU law which is intended to apply to Member States when they implement that law (see, to that effect, judgment of 22 September 2022, *Országos Idegenrendészeti Főigazgatóság and Others*, C-159/21, EU:C:2022:708, paragraph 35 and the case-law cited).

45 It is also apparent from the case-law of the Court that compliance with a reasonable time limit in the conduct of administrative procedures relating to competition policy constitutes a general principle of EU law (see, to that effect, judgment of 21 September 2006, *Nederlandse Federatieve Vereniging voor de Groothandel op Elektrotechnisch Gebied* v *Commission*, C-105/04 P, EU:C:2006:592, paragraph 35 and the case-law cited), and is, moreover, laid down as a component of the right to good administration by Article 41(1) of the Charter.

46 Lastly, in the fourth place, the request for a preliminary ruling also refers to the principle of effectiveness.

47 In those circumstances, it must be held that, by its question, the referring court asks, in essence, whether Article 101 TFEU, read in the light of the general principle of the right to good administration, Article 47 of the Charter and the principle of effectiveness, must be interpreted as precluding national legislation which, in the context of proceedings for a finding establishing an anti-competitive practice by a national competition authority, does not expressly provide that the time limit for closure of the investigation stage of those proceedings, set by that authority in the statement of objections, is mandatory, so that that authority may unilaterally postpone that time limit, by reasoned decisions, where circumstances arise which lead to an extension of the subject matter of those proceedings or of the number of undertakings covered by those proceedings.

48 In that regard, in the absence of specific EU rules governing procedural time limits for the establishment of infringements of EU competition law and the imposition of penalties in respect of those infringements by the national competition authorities, it is for Member States to establish and apply national procedural rules in that field (see, to that effect, judgment of 30 January 2025, *Caronte & Tourist*, C-511/23, 'the judgment in *Caronte & Tourist*', EU:C:2025:42, paragraph 43 and the case-law cited).

49 However, the Member States must exercise that competence in a manner consistent with EU law. Having regard to the principle of effectiveness, they may not render the implementation of EU law impossible in practice or excessively difficult and, specifically, in the field of competition law, they must ensure that the rules which they establish or apply do not jeopardise the effective application of Articles 101 and 102 TFEU (the judgment in *Caronte & Tourist*, paragraph 44 and the case-law cited).

50 National rules laying down procedural time limits for the establishment of infringements and the imposition of penalties by the national competition authorities must be devised in such a way as to strike a balance between, on the one hand, the objectives of providing legal certainty and ensuring that cases are dealt with within a reasonable time as general principles of EU law and, on the other, the effective and efficient application of Articles 101 and 102 TFEU, in order to safeguard the public interest in preventing the operation of the internal market being distorted by agreements or practices harmful to competition (see, to that effect, judgment of 21 January 2021, *Whiteland Import Export*, C-308/19, EU:C:2021:47, paragraph 49).

51 In order to determine whether national rules on time limits observe such a balance, it is necessary to take into consideration, inter alia, the duration of the period concerned and all the detailed rules for its application, such as the date on which it starts to run, the mechanism adopted to start the period running, and that for suspending or interrupting it (the judgment in *Caronte & Tourist*, paragraph 47 and the case-law cited).

52 Account must also be taken of the specific features of competition law cases and in particular of the fact that those cases require, in principle, a complex factual and economic analysis (the judgment in *Caronte & Tourist*, paragraph 48 and the case-law cited).

53 Furthermore, for the purpose of setting reasonable time limits for the procedures conducted by the national competition authorities with a view to penalising anti-competitive practices, the principle of legal certainty requires the Member States to put in place a system of time limits that is sufficiently precise, clear and foreseeable to enable all the parties involved to know precisely the extent of the obligations which the rules in question impose on them and to take steps accordingly (the judgment in *Caronte & Tourist*, paragraph 49 and the case-law cited).

54 In addition, when determining procedural time limits for the establishment of infringements and the imposition of penalties by the national competition authorities, Member States may lay down not only general limitation rules applicable to infringement proceedings as a whole, but also, where appropriate, time limits for the conduct of certain stages of those proceedings (see, to that effect, the judgment in *Caronte & Tourist*, paragraph 51).

55 In respect of those time limits, Member States may lay down that they are not to be determined in an abstract and general manner, but set by those authorities on a case-by-case basis, depending on the complexity of each infringement procedure, provided that the national rules relating to those time limits satisfy the requirements referred to in paragraphs 50 to 53 above (see, by analogy, the judgment in *Caronte & Tourist*, paragraph 51).

56 As to the possibility of postponing the time limit for closure of the investigation stage set by the national competition authority in the statement of objections, it should be recalled, first, that the Court has held that, in order effectively to fulfil their obligation to implement EU competition law, the national competition authorities must be able to give differing degrees of priority to the complaints brought before them, by having, for that purpose, a broad discretion (the judgment in *Caronte & Tourist*, paragraph 57 and the case-law cited).

57 It cannot be ruled out that, depending on the priority to be given to one or more ongoing infringement procedures, a national competition authority may be forced to temporarily postpone the investigation of another infringement procedure, and therefore the time limit for closure of the investigation stage of that procedure.

58 Secondly, as is apparent from paragraph 52 above, EU competition law cases require, in principle, a complex factual and economic analysis. Thus, in a significant number of cases involving a high degree of complexity, it might prove necessary to adopt many acts and investigation measures in order to carry out such an analysis, such acts and measures necessarily prolonging the duration of the infringement proceedings (see, to that effect, judgment of 21 January 2021, *Whiteland Import Export*, C-308/19, EU:C:2021:47, paragraph 56).

59 Thirdly, the Court has held that national rules on limitation which, for reasons inherent to them, are systematically an obstacle to the imposition of effective and dissuasive penalties for infringements of EU competition law are liable to render the application of the rules of EU competition law impossible in practice or excessively difficult. Consequently, it held that national legislation laying down a limitation period, the application of which was, in the light of the high degree of complexity of competition law cases, liable to create a systemic risk that acts constituting infringements of that law would go unpunished, was incompatible with the principle of effectiveness (the judgment in *Caronte & Tourist*, paragraph 73 and the case-law cited).

60 From that perspective, the prohibition on a national competition authority postponing the time limit for closure of the investigation stage of infringement proceedings could be such as to prevent the imposition of effective and dissuasive penalties for infringements of Article 101 or 102 TFEU.

61 Such a prohibition could prevent that authority from conducting an investigation covering all aspects of an anti-competitive practice, by obliging it to adopt a decision on the basis of potentially incomplete information, in order not to be deprived of the possibility of penalising the undertakings to which the time limit for closure was initially communicated. The result would be a risk that certain acts constituting infringements of those articles and/or conduct of certain other undertakings which also participated in those offences but were not covered by the infringement procedure from the outset would go unpunished.

62 It follows that the national competition authorities must be able, where that is necessary in order to be able to impose effective and dissuasive penalties for the infringements of EU competition law, to postpone the time limit for closure of the investigation stage of that procedure.

63 However, such a postponement of that time limit should not, in principle, amount to a failure to observe the reasonable period within which that stage of the infringement procedure must be concluded.

64 In that regard, it is clear from the case-law of the Court that the reasonableness of the period of time taken to adopt a measure is to be appraised in the light of all of the circumstances specific to each case and, in particular, the importance of the case for the person concerned, its complexity and the conduct of the parties to the case (see, to that effect, judgment of 28 February 2013, *Review of Arango Jaramillo and Others* v *EIB*, C-334/12 RX-II, EU:C:2013:134, paragraph 28 and the case-law cited).

65 However, that list of criteria is not exhaustive and the assessment of the reasonableness of a period does not require a systematic examination of the circumstances of the case in the light of each of them, where the duration of the proceedings appears justified in the light of one of them. Thus, the complexity of the case may be deemed to justify a duration which is prima facie too long (judgment of 25 January 2007, *Sumitomo Metal Industries and Nippon Steel* v *Commission*, C-403/04 P and C-405/04 P, EU:C:2007:52, paragraph 117 and the case-law cited).

66 The Court also observed that the reasonableness of a period cannot be determined by reference to a precise maximum limit determined in an abstract manner but, rather, must be appraised in the light of the specific circumstances of each case (judgment of 28 February 2013, *Review of Arango Jaramillo and Others* v *EIB*, C-334/12 RX-II, EU:C:2013:134, paragraph 29 and the case-law cited).

67 More generally, a postponement of the time limit for closure of the investigation stage of the infringement proceedings should not lead to a breach of the

fundamental rights of the undertakings concerned. In the exercise of its procedural autonomy, a Member State must ensure not only that EU competition law and the prosecution and punishment of infringements thereof are fully effective, but also that fundamental rights are observed, in particular the rights of the defence of the undertakings concerned by infringement proceedings (see, to that effect, the judgment in *Caronte & Tourist*, paragraph 62 and the case-law cited).

68 In that context, it should be recalled that the right to good administration encompasses the obligation of the administration to give reasons for its decisions (judgment of 24 November 2020, *Minister van Buitenlandse Zaken*, C-225/19 and C-226/19, EU:C:2020:951, paragraph 34 and the case-law cited), that obligation also constituting, in so far as it is intended to allow the person concerned to understand the grounds of the individual measure adversely affecting him or her, the corollary of the principle of respect for the rights of the defence (see, to that effect, judgment of 8 May 2019, *PI*, C-230/18, EU:C:2019:383, paragraph 57 and the case-law cited).

69 Consequently, in the first place, the postponement of the time limit for closure of the investigation stage of infringement proceedings must, in accordance with the principle of legal certainty referred to in paragraph 53 above and the resulting requirement of predictability, be communicated to the undertaking concerned as soon as possible and, in any event, before the expiry of the postponed time limit for closure of the investigation stage. In addition, the postponement decision must set the new time limit for closure of that investigation stage.

70 In that regard, it is apparent from the case-law of the Court that the principle of legal certainty, the corollary of which is the principle of the protection of legitimate expectations, requires, inter alia, that rules of law be clear, precise and predictable in their effect, especially where they may have negative consequences on individuals and undertakings. In addition, the right to rely on the principle of the protection of legitimate expectations extends to any person in a situation in which it is clear that the relevant authorities have, in giving him precise assurances, caused him to entertain expectations which are justified (judgment of 17 October 2018, *Klohn*, C-167/17, EU:C:2018:833, paragraphs 50 and 51 and the case-law cited).

71 In its written observations, Imballaggi Piemontesi relies on the principle of the protection of legitimate expectations in order to argue that the AGCM was not entitled to postpone the time limit for closure of the investigation procedure at issue. Subject to verification by the referring court, it is not apparent from the documents before the Court that that company received assurances from that authority as to the fact that the time limit for closure set in the statement of objections was not likely to be postponed.

72 In the second place, the postponement of the time limit for closure of the investigation stage of infringement proceedings must duly provide reasons for the occurrence of circumstances which made the investigation more complex than

what the national competition authority had envisaged when setting that time limit.

73 In that regard, the referring court states that the investigation procedure at issue was of exceptional complexity, and that both the number of undertakings concerned by that procedure and its subject matter broadened over time. That explains why the time limit for closure of that procedure was postponed twice in order, first, to ensure the effective exercise of the AGCM's tasks and, second, to guarantee the rights of the defence both of the undertakings initially covered by the same procedure and of those to which it was extended. It is for that court to verify that the decisions postponing the time limit for closure of the investigation procedure at issue duly provided reasons for the occurrence of such circumstances.

74 Lastly, in the third place, the postponement of the time limit for closure of the investigation stage of infringement proceedings must be capable of being subject, in accordance with the principle of effective judicial protection set out in Article 47 of the Charter, to judicial review in order to ascertain whether the decision postponing that time limit and setting a new time limit for closure was adopted in compliance with the principle that action must be taken within a reasonable time and the rights of defence of the undertaking concerned, which means, in particular, that that decision was communicated to that undertaking in good time and that reasons were duly provided for the occurrence of circumstances which made the investigation more complex than what the national competition authority had envisaged when setting the postponed time limit.

75 In the present case, the existence of such a judicial review appears to be established, as is clear from the order for reference and from the written observations of Imballaggi Piemontesi, which states that it challenged before the Italian courts both postponements of the time limit for closure of the investigation procedure at issue.

76 It should also be added that, even if, in a given case, such a postponement were to infringe the principle of compliance with a reasonable time limit, it is clear from settled case-law that the breach of that principle is capable of justifying the annulment of a decision taken following an administrative procedure based on Article 101 or 102 TFEU only if it also constitutes an infringement of the rights of the defence of the undertaking concerned (judgment of 4 October 2024, *Ferriere Nord* v *Commission*, C-31/23 P, EU:C:2024:851, paragraph 150 and the case-law cited) and which, in that context, it is for that undertaking to demonstrate to the requisite legal standard that, because of the excessive length of the administrative procedure, it experienced difficulties in defending itself against the allegations of the competition authority (see, by analogy, judgment of 29 March 2011, *ArcelorMittal Luxembourg* v *Commission* and *Commission* v *ArcelorMittal Luxembourg and Others*, C-201/09 P and C-216/09 P, EU:C:2011:190, paragraph 118 and the case-law cited).

77 The referring court states that, in the dispute in the main proceedings, Imballaggi Piemontesi has not shown that the postponement of the time limit for closure of the investigation procedure at issue adversely affected the exercise of its rights of defence.

78 Lastly, it should be stated that the possibility of postponing the time limit for closure of infringement proceedings under Articles 101 and 102 TFEU conducted by the national competition authorities remains, in any event, subject to the maximum limit of the absolute limitation period, the determination of which is a matter for Member States, subject to compliance with the principles of equivalence and effectiveness (see, to that effect, judgment of 21 January 2021, *Whiteland Import Export*, C-308/19, EU:C:2021:47, paragraph 37).

79 In the light of all the foregoing considerations, the answer to the question referred is that Article 101 TFEU, read in the light of the general principle of the right to good administration, Article 47 of the Charter and the principle of effectiveness, must be interpreted as not precluding national legislation which, in the context of proceedings for a finding establishing an anti-competitive practice by a national competition authority, does not expressly provide that the time limit for closure of the investigation stage of those proceedings, set by that authority in the statement of objections, is mandatory, so that that authority may unilaterally postpone that time limit, by reasoned decisions, subject to judicial review, where circumstances arise which lead to an extension of the subject matter of those proceedings or of the number of undertakings covered by those proceedings, provided that such a postponement does not amount to a failure to observe the reasonable period within which that investigation stage must be concluded.

Costs

80 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the referring court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Tenth Chamber) hereby rules:

Article 101 TFEU, read in the light of the general principle of the right to good administration, Article 47 of the Charter of Fundamental Rights of the European Union and the principle of effectiveness,

must be interpreted as not precluding national legislation which, in the context of proceedings for a finding establishing an anti-competitive practice by a national competition authority, does not expressly provide that the time limit for closure of the investigation stage of those proceedings, set by that authority in the statement of objections, is mandatory, so that that authority may unilaterally postpone that time limit, by reasoned decisions, subject to

judicial review, where circumstances arise which lead to an extension of the subject matter of those proceedings or of the number of undertakings covered by those proceedings, provided that such a postponement does not amount to a failure to observe the reasonable period within which that investigation stage must be concluded.

[Signatures]