European Union

“Schenker”

Treaty on the Functioning of the European Union,
Art. 101 – *Bundswettbewerbsbehörde und Bundeskartellanwalt*
v. Schenker & Co. AG et al.

Decision of the European Court of Justice (Grand Chamber)
18 June 2013 – Cases No. C-681/11

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1. Article 101 TFEU must be interpreted as meaning that an undertaking which has infringed that provision may not escape imposition of a fine where the infringement has resulted from that undertaking erring as to the lawfulness of its conduct on account of the terms of legal advice given by a lawyer or of the terms of a decision of a national competition authority.
2. Article 101 TFEU and Articles 5 and 23(2) of Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles [101 TFEU] and [102 TFEU] must be interpreted as meaning that, in the event that the existence of an infringement of Article 101 TFEU is established, the national competition authorities may by way of exception confine themselves to finding that infringement without imposing a fine where the undertaking concerned has participated in a national leniency programme.

Official headnotes.

Available at <http://curia.europa.eu>.