

- in the alternative, reduce, as appropriate, the amount of the fine imposed on the applicants in the contested decision, pursuant to Article 261 TFEU;
- order the defendant to pay the costs of these proceedings.

Pleas in law and main arguments

In support of the action, the applicants rely on eight pleas in law.

1. First, in its findings the defendant breached the principles of the burden of proof (Article 2 of Regulation No 1/2003), the standard of proof and the obligation to state the reasons for its decision. In particular, the defendant failed to demonstrate sufficiently the existence of any alleged 'signal effects' on all mounting technologies and materials throughout the entire European Economic Area (EEA) of German prices for 'turn-and-tilt' systems, and thereby unlawfully reduced the burden of proof on the defendant.
2. Second, the defendant erred in law in assuming that the alleged collusion affected the whole of the EEA, or failed to adduce sufficient evidence in that respect.
3. Third, the defendant erred in law in assuming that the alleged infringement related to all mounting technologies and materials, and failed to adduce sufficient evidence in that respect.
4. Fourth, the defendant erred in law in assuming that collusion on prices occurred in 2002, and failed to adduce sufficient evidence in that respect. As a result the Guidelines on fines were also applied incorrectly in law, in so far as it was erroneously assumed that the infringement lasted from 1999 until 2007. Furthermore the defendant infringed Article 25 of Regulation No 1/2003, because events that occurred before 2002 are time-barred.
5. Fifth, the defendant erred in law in attributing to the applicants the conduct of a company in which only a minority shareholding was held, thereby infringing the rules on the attribution of the actions of subsidiaries to the parent company, as well as the obligation to state reasons.
6. Sixth, in making an adjustment of the fine, the defendant breached the principles of equal treatment, proportionality, sound administration, and of the obligation to state reasons. Furthermore, the defendant acted contrary to the wording, logic and purpose of the Guidelines on fines.
7. Seventh, in determining the gravity of the infringement, the defendant breached the principles of proportionality and

sound administration and infringed points 20, 23, and 25 of the Guidelines on fines, as well as the obligation to state reasons.

8. Eighth, in determining mitigating circumstances, the defendant breached the principles of equal treatment, point 29 of the Guidelines on fines and the obligation to state reasons. In particular the defendant failed to take into account the fact of the applicants' non-intentional conduct and of their active cooperation.

Action brought on 11 June 2012 — Alban Giacomo v Commission

(Case T-259/12)

(2012/C 227/55)

Language of the case: Italian

Parties

Applicant: Alban Giacomo SpA (Romano d'Ezzelino, Italy) (represented by: S. Nanni Costa, F. Di Gianni, G. Coppo, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- Annul or, in the alternative, reduce the fine imposed on the applicant, if necessary by having recourse to the unlimited jurisdiction conferred on the Court by Article 261 TFEU;
- Order the Commission to pay the costs.

Pleas in law and main arguments

The decision contested in the present proceedings is the same as that in Case T-248/12 *Carl Fuhr GmbH & C. KG v Commission*.

The applicant relies on two pleas in law in support of its action.

1. First plea, alleging that the determination of the duration of the infringement ascribed to Alban Giacomo SpA was unlawful.
 - By the first plea, the applicant submits that the infringement established in its case ended at the time of the last meeting at which it participated, namely on 11 September 2006, and not at the time of the inspections carried out by the Commission on 3 July 2007.

- The applicant puts forward the following arguments in support of this plea: (i) it has not been established that during the meeting held on 11 September 2006 the applicant concluded an agreement on price increases for 2007; (ii) it has not been established that the applicant implemented the purported agreement concerning price increases for 2007; (iii) it has not been established that the applicant remained in contact with competitors after the meeting of 11 September 2006.
2. Second plea in law, alleging that the fine imposed on Alban Giacomo SpA is unlawful, in so far as it is contrary to the principle that penalties must be specific to the offender and to the offence and the principles of non-discrimination, equal treatment and proportionality.
- By the second plea, the applicant claims that the Commission failed correctly to ensure that the fine imposed on it was commensurate with its degree of responsibility vis-à-vis that of the other undertakings participating in the cartel, in breach of the fundamental principles of proportionality and equal treatment and the principle that penalties must be specific to the offender and to the offence.
 - The applicant puts forward the following arguments in support of this plea: (i) the percentage of sales used for the purpose of calculating the fine is excessive; (ii) in the alternative, the refusal to grant the applicant the benefit of an attenuating circumstance is unjustified; (iii) in the further alternative, the Commission should have further reduced the fine imposed on the applicant.
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