

Finally, the applicants submit that the objectives of the Council in the directives cited are not covered by Community law and are therefore a direct cause of the refusal to disclose the accounts, and that the causal link between the objectives of the directive and the damage caused and anticipated is thus clear.

- (1) First Council Directive 68/151/EEC of 9 March 1968 on coordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 58 of the Treaty, with a view to making such safeguards equivalent throughout the Community (OJ, English Special Edition 1968(I), p. 41).
- (2) Fourth Council Directive 78/660/EEC of 25 July 1978 based on Article 54 (3) (g) of the Treaty on the annual accounts of certain types of companies (OJ 1978 L 222, p. 11).

Action brought on 27 February 2002 by Brouwerij Haacht N.V. against the Commission of the European Communities

(Case T-48/02)

(2002/C 109/118)

(Language of the case: Dutch)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 27 February 2002 by Brouwerij Haacht N.V., established at Boortmeerbeek (Belgium), represented by Yves van Gerven, Frédéric Louis and Hendrik Viane, lawyers, with an address for service in Luxembourg.

The applicant claims that the Court should:

- annul Article 4 of the decision in issue, in so far as it concerns Brouwerij Haacht N.V. and, in so far as may be necessary, order that no fine be imposed on Brouwerij Haacht N.V. or substantially reduce the fine;
- order the Commission to pay the costs in any event.

Pleas in law and main arguments

The action is directed against the decision in so far as it imposes a fine on the applicant in consequence of the private label cartel on the Belgian beer market.

The applicant claims that the Commission has failed to comply with the obligation to provide a statement of reasons as prescribed by Article 253 of the EC Treaty, and with the guidelines for the calculation of fines. According to the applicant, the Commission, in determining the actual economic power of the parties concerned, failed to define the relevant market. It maintains that the decision does not make it clear whether the relevant market is the private label market or the beer market in general. Moreover, the Commission over-estimated the economic power of the applicant in the market for private label beer, if and in so far as it is that market which is to be regarded as the relevant market. The applicant further argues that the Commission wrongly characterised the role played by the applicant in the cartel in question as an active role. According to the applicant, its role must be regarded as having been purely passive, or at least as less active.

Lastly, the applicant pleads infringement of the Notice on Cooperation and of the principle of equal treatment. According to the applicant, the Commission failed to take sufficient account of the significance of the applicant's statements proving the infringement of the rules. The Commission consequently treated similar situations in a dissimilar way, by not applying the same reduction in the fine where there was a comparable level of cooperation. Moreover, the Commission treated dissimilar situations in a similar way, by applying the same reduction in the fines imposed on the applicant and on parties who cooperated less, or not at all, in the Commission's investigation.

Action brought on 26 February 2002 by Brasserie Nationale against the Commission of the European Communities

(Case T-49/02)

(2002/C 109/119)

(Language of the case: French)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 26 February 2002 by Brasserie Nationale, established at Bascharage (Luxembourg), represented by Alexandre Carnelutti and Jean-Louis Schiltz, lawyers, with an address for service in Luxembourg.

The applicant claims that the Court should:

- annul Article 1 of the Commission's decision of 5 December 2001 in Case COMP/37800/F3 — Brasseries Luxem-