

In support of its application the applicant submits the following contentions:

- the defendant violated the rights of the defence and the principle of equality of arms. More specifically, the applicant alleges that the defendant used information obtained from a third party as well as information contained in the replies of the other parties to the defendant, and that all of that information was not revealed to the applicant.
- the evidence advanced by the defendant does not substantiate its claims and the defendant has failed to meet the high standard of proof which the applicant considers is required in such proceedings.
- the defendant made manifest errors in its assessment of information, leading it to an incorrect decision and misuse of its powers.
- the defendant violated Article 253, EC, in that it failed to provide sufficient or adequate reasons for its decision

The applicant further contends that in setting the fine the defendant misapplied its powers under Article 15, paragraph 2, of Regulation 17/62 and its own Guidelines on setting fines, violated the principles of Community law and acted unreasonably. In particular, the applicant contends that:

- the basic amounts of the fine imposed for gravity and duration are disproportionate, arbitrary, and contrary to the principles of proportionality and equal treatment
- the 50 % uplift for aggravating circumstances is excessive and disproportionate and offends the principle of equal treatment
- the defendant failed to take account of any attenuating circumstances
- the defendant erred in its application of its Leniency Notice in violation of the principles of equal treatment and legitimate expectation

**Action brought on 14 February 2003 by Lafarge SA against Commission of the European Communities**

(Case T-54/03)

(2003/C 101/81)

(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 14 February 2003 by Lafarge SA, established in Paris, represented by Henry Lesguillons, Nathalie Jalbert-Doury, Jean-Cyril Bermond, Antoine Winckler, François Brunet and Igor Simic, lawyers.

The applicant claims that the Court should:

- annul the decision adopted by the Commission of the European Communities on 27 November 2002 in Case COMP/E-1/37.152 in so far as it concerns Lafarge SA and Lafarge Gypsum International SA;
- in the alternative, annul or reduce the amount of the fine imposed on it by that decision;
- order the Commission of the European Communities to pay the costs.

*Pleas in law and main arguments*

The decision which is the subject of the present application concerns an agreement or arrangement between BPB, Gebrüder Knauf Westdeutsche Gipswerke AG, Gyproc Benelux and the applicant on the plasterboard market.

In support of its claims, the applicant alleges that the Commission infringed Article 81 of the EC Treaty and committed manifest errors of assessment inasmuch as the decision finds that Lafarge SA committed a single complex continuous infringement, which the applicant denies.

The applicant also takes the view that:

- the defendant infringed its right to a fair hearing guaranteed under Article 6 of the ECHR;
- the defendant infringed essential procedural requirements and rights of the defence. In that respect, the applicant claims that the defendant used statements from the parties made during the procedure and that the proceedings were vitiated by constant infringements of the principle of equality of arms;
- the defendant infringed the principle of impartiality.

In support of its claims the applicant alleges, in the alternative, that the defendant infringed Article 15(2) of Regulation No 17, Article 253 EC and the principles of proportionality and of equal treatment by:

- imposing on the applicant a fine in excess of 10 % of its worldwide turnover;
- imposing on the applicant an global fine in respect of allegedly discrete infringements;
- increasing the 'starting amount' as a deterrent and on the ground of aggravating circumstances;
- applying an excessive multiplication factor;
- not reducing the fine on the ground of attenuating circumstances or by virtue of the 'Amnesty Notice' <sup>(1)</sup>.

(1) Published in OJ 1996 C 207 p. 4.

**Action brought on 12 February 2003 by Philippe Brendel against Commission of the European Communities**

**(Case T-55/03)**

(2003/C 101/82)

*(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 12 February 2003 by Philippe Brendel, residing in Brussels, represented by Georges Vander-sanden and Laure Levi, lawyers.

The applicant claims that the Court should:

- annul the decision taken by the appointing authority of 3 May 2002 classing the applicant in Grade A 7, Step 2 with effect from 16 March 2001 and, so far as is necessary, annul the decision of 25 October 2002, notified on 4 November 2002, to reject the applicant's complaint;
- order the defendant to pay the balance of the remuneration consisting of the difference between the remuneration corresponding to classification in Grade A 7, Step 2,

and the remuneration corresponding to classification in the next higher grade and step, together with default interest at 5,7 % per annum as from 16 March 2001;

- order the defendant to pay damages and interests assessed, ex æquo et bono, at EUR 500 a month as from 16 March 2001 until the date they are paid;
- order the defendant to pay the costs.

*Pleas in law and main arguments*

The applicant in these proceedings challenges the decision of the appointing authority refusing to classify him in Grade A6, Step 3, on his taking up his duties with the defendant following competition EUR/A/154 for the recruitment of administrators (career bracket A 7/A 6) in auditing and accounting.

In support of his claims he alleges:

- infringement of Article 31(2) of the Staff Regulations, of the decision of 1 September 1983 on the criteria applicable to appointment to grade and classification in step on recruitment and of the Administrative Guide;
- infringement of the principle *patere quam ipse legem fecisti* and of equal treatment;
- that there was in the circumstances a manifest error of assessment;
- disregard of the duty to have regard to the interests of officials and the duty to state reasons;
- infringement of Article 39 EC.

**Action brought on 10 February 2003 by Bioelettrica S.p.A. against the Commission of the European Communities**

**(Case T-56/03)**

(2003/C 101/83)

*(Language of the case: Italian)*

An action against the Commission of the European Communities was brought before the Court of First Instance of the