

The applicant furthermore submits that the Commission failed to take into account the applicant's smaller total size in relation to that of the other participants in the infringement while determining the starting point for the calculation of the fine. According to the applicant, the Commission should have applied a downward adjustment for the applicant.

The applicant finally claims that its cooperation with the investigation qualified for a reduction of 50 % rather than 35 %. The applicant states that it voluntarily provided the Commission with evidence showing that the infringement started earlier than known to the Commission.

Action brought on 28 February 2003 by Banco Comercial dos Açores, SA against the Commission of the European Communities

(Case T-75/03)

(2003/C 112/67)

(Language of the case: Portuguese)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 28 February 2003 by the Banco Comercial dos Açores, SA, whose registered office is in Edifício BCA, Rua Dr. José Bruno Tavares Carreiro, Ponta Delgada, Azores, represented by Carlos Botelho Moniz and Margarida Rosado da Fonseca, lawyers.

The applicant claims that the Court should:

- annul the last part of Article 1, together with Articles 2, 3 and 4 of the decision of the Commission of 11 December 2002 'on the part of the scheme adapting the national tax system to the specific characteristics of the autonomous region of the Azores with regard to the tax reductions' to the extent that those provisions refer to undertakings which pursue the financial activities provided for in Section J (Codes 65, 66 and 67) of the Statistical Classification of Economic Activities in the European Community — NACE REV1.1);
- order the Commission of the European Communities to pay the entire costs.

Pleas in law and main arguments

The contested decision declares compatible with the common market the aid granted in the form of tax reductions under the tax system of the Azores, but not as regards the financial services.

The applicant relies on the following:

- error of law in the application of Article 87 of the EC Treaty: the measure at issue is of general scope and does not constitute State aid within the meaning of Article 87 of the EC Treaty. In any event, the Commission has not demonstrated that the criterion as to effect on trade between Member States has been met;
- error in the facts set out in the decision: the undertakings in the financial sector are affected, as are the undertakings in the remaining business sectors, by the structural disadvantages acknowledged in the contested decision;
- breach of an essential procedural requirement in that the statement of reasons is inadequate;
- breach of the principle of equality; and
- breach of the principles of legal certainty and legitimate expectations.

Action brought on 4 March 2003 by Feralpi Siderurgica S.p.A. against the Commission of the European Communities

(Case T-77/03)

(2003/C 112/68)

(Language of the case: Italian)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 4 March 2003 by the above applicant, represented by Prof. G. M. Roberti, A. Franchi and I. Perego, lawyers,

The applicant claims that the Court should:

- annul wholly or in part the Commission Decision of 17 December 2002 on a proceeding pursuant to Article 6 of the ECSC Treaty (Case COMP/37.956 — concrete reinforcing bars);
- cancel or reduce the fine imposed pursuant to Article 2 of that decision;
- order the defendant to pay the costs.