

Pleas in law and main arguments

The applicant Lawyers' Association, taking the view that the contested directive concerns it directly and individually as the competent national authority responsible for assessing the professional qualifications of those seeking registration as members, seeks by its action the annulment of certain provisions of that directive. In its opinion, those provisions equate a higher level of professional qualifications with the level directly below and allow a Member State to proceed, by its national provisions, to equate evidence of formal legal qualifications at university level with evidence of formal legal qualifications obtained at a lower educational level and to grant the same professional rights to holders of post-secondary level qualifications as to holders of university qualifications in law, albeit without their satisfying the requirements laid down by the home Member State.

In support of its application, the applicant maintains that, in issuing the contested directive, the Community institutions went far beyond the limits of their competence and encroached upon the constitutional responsibilities of the Hellenic Republic as regards the organisation and structure of university-level education. In the same context, the applicant also alleges infringement of the principles of subsidiarity, proportionality, proximity, cohesion, avoidance of misuse and mutual respect between constitutional and Community authorities. It also alleges infringement of Article 6 EU in so far as it considers that, by the contested directive, the fundamental rights to free education, freedom to choose and exercise a profession and effective use of a recognised educational qualification have been infringed.

The applicant further relies on infringement of the Community *acquis* and consequently a conflict between the contested directive and Articles 2 and 3 EU. Lastly it alleges that insufficient and contradictory reasons were given for the contested measure.

(¹) OJ L 255 of 30.09.2005, p. 22.

Action brought on 27 December 2005 — Belgian Sewing Thread v Commission

(Case T-452/05)

(2006/C 60/83)

Language of the case: Dutch

Parties

Applicant: Belgian Sewing Thread N.V. (represented by: H. Gilliams, lawyer)

Defendant: Commission of the European Communities

Form of order sought

The applicant claims that Court should:

- (a) in the action for annulment:
- annul Article 1 of the Decision insofar as it finds that the applicant participated in the infringement established therein to the same extent as the other undertakings involved in the infringement, and Article 2 of the Decision insofar as it imposes a fine on the applicant;
 - in the alternative, annul or substantially reduce the fine imposed on the applicant in Article 2 of the Decision;
 - order the Commission to pay the costs of the proceedings;
- (b) in the action for compensation:
- find that the Commission is liable under Articles 235 and 288 EC;
 - order the Commission to pay all the damage suffered and yet to be suffered by the applicant as result of the Commission's publication of the applicant's internal price lists;
 - order the Commission to pay interest on the damages, at 8 % per annum with effect from the moment when the Commission was at fault;
 - order the Commission, pending the outcome of an expert's report, to pay in advance compensation of EUR 705 812;
 - order the Commission to pay the costs of the proceedings.

Pleas in law and main arguments

First of all, the applicant contests the Commission's decision of 14 September 2005 relating to a proceeding pursuant to Article 81 of the EC Treaty and Article 53 of the EEA Agreement (Case 38.337 — PO/Thread) insofar as it finds that the applicant participated in the infringement established there to the same extent as the other undertakings involved in the infringement, and seeks the annulment or at least a substantial reduction of the fine imposed on it.

The applicant states that the infringement committed by it was wrongly classified as very serious. The Commission thereby infringed the principle of fairness and proportionality, Article 23(3) of Regulation 1/2003 (¹), and also the obligation to state reasons and the rights of the defence. According to the applicant, the Commission failed to take into account the fact that the applicant had not played any role whatsoever in the conception and organisation of the infringement, did not participate in the meetings in question with a view to making agreements restrictive of competition, and the fact that the applicant never implemented the agreements.

The applicant also challenges its placement in the second category for determination of the basic amount, and the size of the basic amount imposed. According to the applicant, the Commission overrated the possibility of the applicant having a real impact on competition, both in an absolute sense in comparison with the impact of the other undertakings involved but also in the light of the applicant's precarious financial situation and the limited size of the market. It also submits in that connection that the Commission infringed the principle of fairness and proportionality, Article 23(3) of Regulation 1/2003, the Guidelines on the method of setting fines and the obligation to state reasons.

According to the applicant, the Commission also wrongly assessed attenuating circumstances in relation to the applicant and infringed the Guidelines on the method of setting fines and the obligation to state reasons. The Commission ought to have taken into account as attenuating circumstances the fact that the applicant did not implement the agreements made and that it had played a very limited and passive role.

According to the applicant, a much too small a reduction in the fine imposed was granted to it on account of its cooperation with the investigation, in breach of the obligation to state reasons, the principle of equality and proportionality and the Leniency Notice.

Finally, the applicant seeks compensation for the damage suffered by it as result of the Commission's infringement of the principle of the protection of legitimate expectations and the obligation of secrecy, by publishing the applicant's internal price lists.

(¹) Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (OJ 2003 L 1, p. 1)

Action brought on 20 December 2005 — Sumimoto Chemical Agro Europe and Philagro France v Commission

(Case T-454/05)

(2006/C 60/84)

Language of the case: English

Parties

Applicants: Sumitomo Chemical Agro Europe SAS (Lyon, France) and Philagro France SAS (Lyon, France) [represented by: K. Van Maldegem, C. Mereu, lawyers]

Defendant: Commission of the European Communities

Form of order sought

- Order the annulment of Commission Decision D/430967; or, in the alternative,
- order the defendant to comply with its obligations under Community law and propose the inclusion of procymidone in Annex I to the PPPD for all uses/crops, as requested by the applicants;
- order the defendant to compensate the applicants in the provisional amount of 1 (one) Euro for damages suffered as a result of Commission Decision D/430967, or, in the alternative, as a result of the defendant's failure to comply with its obligations under Community law by failing to respond to the applicants, as well as any applicable interests, pending the exact calculation and determination of the exact amount;
- order the defendant to pay all costs and expenses in these proceedings.

Pleas in law and main arguments

Council Directive 91/414 (¹) concerning the placing of plant protection products on the market (known as the 'plant protection products directive' or 'PPPD') provides that Member States shall not authorise a product unless it is inscribed in Annex I of the Directive. The applicants have repeatedly contacted the Commission with a view to ensuring that procymidone, the active substance contained in their plant protection products, should be included in Annex I.

By letter of the 20 October 2005, which constitutes the contested Decision, the Commission informed the first applicant that possible inclusion of procymidone in Annex I would, at most, cover the supported uses that have been the subject of EU evaluation; it further makes such inclusion conditional on the submission of a proposal for highly detailed conditions of use and risk mitigation measures.

The applicants request the annulment of that Decision, criticizing the proposed limited authorisation of procymidone, which would lead to it being registered only for two crops, namely plums and cucumbers, as well as the requirement for highly detailed conditions of use. According to the applicant, these requirements violated the PPPD which only refers to broad use categories, such as insecticides, growth regulators or herbicides, leaving it to the Member States to assess use in relation to specific crops. In the same context the applicants allege that the requirement for detailed conditions is neither allowed under the PPPD nor scientifically justified.