

Pleas in law and main arguments

In support of the action, the applicant relies on a single plea in law, alleging non-contractual liability of the European Union and, more exactly, an infringement of the right of property and the principle of non-discrimination.

The measures imposed by the European Union on the Republic of Cyprus led to the applicant's accounts with the Laïki Bank being blocked, without any fair compensation having been paid to her in advance.

The European Union thus manifestly and unreasonably infringed the applicant's right of property and the principle of non-discrimination, since only deposits of less than EUR 100 000 made with the Laïki Bank were safeguarded under the European measures imposed on the Cypriot authorities.

Action brought on 17 June 2014 — *Pirelli & C. v Commission*

(Case T-455/14)

(2014/C 261/68)

Language of the case: Italian

Parties

Applicant: Pirelli & C. SpA (Milan, Italy) (represented by: M. Siragusa, F. Moretti, G. Rizza and P. Ferrari, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

primarily

- annul the Decision in so far as it concerns the applicant, specifically Articles 1(5)(d), 2(g) and 4 thereof, but only as regards the inclusion of the applicant in the list of persons to whom that decision is addressed;

in the alternative

- allow *beneficium ordinis seu excussionis* [(that is, make an order to the effect that any creditors must pursue the principal debtor, in the present case Prysmian S.p.A. ('Prysmian'), before pursuing any other debtors, including the applicant)];

in the event that a ruling is made in Prysmian's favour in the separate proceedings brought by that company in the form of an action for annulment of the Decision

- annul the Decision or amend Article 2(g) thereof, reducing the fine imposed jointly and severally on Prysmian and the applicant;

in any event

- order the European Commission to pay the costs.

Pleas in law and main arguments

The present action has been brought against European Commission Decision C(2014) 2139 final of 2 April 2014 relating to a proceeding under Article 101 of the Treaty on the Functioning of the European Union and Article 53 of the EEA Agreement (Case AT.39610 — *Power cables*) [(the Decision)].

In support of the action, the applicant relies on the following six pleas in law.

1. First plea in law, alleging a breach of the duty to state reasons

By its first plea, Pirelli claims that the reasons in support of the argument that the *Parental Liability Presumption* ('PLP') does not apply to the Pirelli-Prysmian relationship were not discussed or even referred to in the Decision. The Decision is therefore vitiated by a complete failure to state reasons and should be annulled.

2. Second plea in law, alleging breach of general principles and infringement of fundamental rights by applying the presumption of decisive influence

By its second plea, the applicant claims that the Decision has infringed its fundamental rights as protected by Articles 48 and 49 of [the Charter of Fundamental Rights of the European Union ('the Charter')] and Articles 6(2) and 7(1) of [the European Convention for the Protection of Human Rights and Fundamental Freedoms ('the Convention')]. Furthermore, imputing liability to the applicant constitutes an infringement of the right to property (Article 1 of the Additional Protocol to the Convention, Article 14 of the Convention, and Articles 17 and 21 of the Charter) and is therefore inconsistent with the principle of neutrality laid down in Article 345 TFEU. Lastly, the applicant claims that the Commission has clearly infringed its rights of the defence, enshrined in Article 6 of the Convention and Article 48(2) of the Charter, since, owing to its not having access to any evidence which could be used to refute the allegations made against Prysmian, the applicant was unable to defend itself in respect of the unlawful conduct at issue.

3. Third plea in law, alleging that the [PLP] does not apply, since the conditions for its application are not satisfied, and alleging infringement of Article 101 TFEU

By its third plea, the applicant claims that, in the present case, the Commission wrongly applied the PLP — in breach of Article 101 TFEU — and did not give due consideration to the particular features of the Pirelli-Prysmian control relationship.

4. Fourth plea in law, alleging breach of the principle of proportionality

By its fourth plea, the applicant claims that applying the PLP in the present case infringes the principle of proportionality as enshrined in Article 5(4) TEU, since the PLP is not designed to achieve any of the aims in respect of which the Commission is attempting to use it. There was therefore no reason for extending to the applicant the liability imputed to Prysmian.

5. Fifth plea in law, alleging breach of the principles of proportionality and equal treatment by wrongly applying the principle of joint and several liability to the applicant and Prysmian in connection with the obligation to pay the fine imposed by the Commission or, in the alternative, by failing to make a suitable adjustment to that principle

By its fifth plea, the applicant claims that imposing liability on the applicant jointly and severally with Prysmian not only does not achieve the objectives which the Commission seeks to pursue with regard to penalties but even directly conflicts with those objectives. In the alternative, in order to take account of the separate liability imputable to Prysmian and the applicant, the Commission should at least have allowed *beneficium ordinis seu excussionis*. Lastly, by failing suitably to reflect the difference between the applicant's position and Prysmian's position, the Commission infringed the principles of proportionality and equal treatment. The court hearing the case must therefore exercise its unlimited jurisdiction to annul the part of the Decision concerning the fine or, in the alternative, reformulate that part and allow *beneficium ordinis seu excussionis*.

6. Sixth plea in law, alleging that the Decision is unlawful because the part concerning Prysmian infringes Article 101 TFEU and Articles 2 and 23 of Regulation (EC) No 1/2003

By its sixth plea, the applicant argues in support of its own right to obtain an annulment (in part or in full) of the Decision or a reduction of the fine to reflect the remedies obtained by Prysmian in its action against the Decision. The arguments put forward in that action, with the exception of those unfavourable to the applicant, are reproduced in the present action.

Action brought on 16 June 2014 — TAO/AFI and SFIE v Parliament and Council

(Case T-456/14)

(2014/C 261/69)

Language of the case: French

Parties

Applicants: Association des Fonctionnaires Indépendants pour la Défense de la Fonction Publique Européenne/Association of Independent Officials for the Defence of the European Civil Service (TAO/AFI) (Brussels, Belgium) and Syndicat des Fonctionnaires Internationaux et Européens/Union of International and European Civil Servants (SFIE) (Brussels, Belgium) (represented by: M. Casado García-Hirschfeld, lawyer)

Defendants: Council of the European Union and European Parliament