

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

1. First plea in law, alleging illegality of Article 10 read in conjunction with Articles 2(1)(g) of Regulation No 1367/2006<sup>(1)</sup>. The applicant submits that by adopting the contested measure the Commission acted in breach of Article 9(3) of the Aarhus Convention as the provisions applied by the Commission — Article 10 read in conjunction with Article 2(1)(g) of Regulation No 1367/2006 — are incompatible with Article 9(3) of the Aarhus Convention. The illegality of these provisions in Regulation No 1367/2006 should have led the Commission to declare the request for internal review admissible.
2. Second plea in law, alleging in the alternative that by adopting the contested measure the Commission acted in breach of its obligation to act as Convention compliant as possible. The applicant submits that the Commission should have interpreted Article 10 of Regulation No 1367/2006 and in particular the words ‘administrative act’ in that provision in conformity with Article 9(3) of the Aarhus Convention and should have left aside the definition of ‘administrative act’ as laid down in Article 2(1)(g) of Regulation No 1367/2006, which is according to the applicant too restrictive.
3. Third plea in law, alleging more alternatively that by adopting the contested measure the Commission acted in breach of Article 2(1)(g) of Regulation No 1367/2006 by holding that Commission Decision 2013/687/EU did not qualify as an act of individual scope.

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<sup>(1)</sup> Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies (OJ 2006 L 264, p. 13).

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**Action brought on 17 June 2014 — Prysmian and Prysmian cavi e sistemi v Commission**

**(Case T-475/14)**

(2014/C 315/113)

*Language of the case: English*

**Parties**

*Applicants:* Prysmian SpA (Milan, Italy); and Prysmian cavi e sistemi Srl (Milan) (represented by: C. Tesauro, F. Russo and L. Armati, lawyers)

*Defendant:* European Commission

**Form of order sought**

The applicants claim that the Court should:

— annul the decision;

— in the alternative:

— annul Article 1(5) of the decision in so far as it found that Prysmian Cavi e Sistemi S.r.l. participated in an infringement of Article 101 TFEU and Article 53 of the EEA Agreement from 18 February 1999 to 27 November 2001;

— annul Articles 2(f) and 2(g) of the decision in so far as these set the level of the fines on Prysmian Cavi e Sistemi S.r.l., Prysmian S.p.a. and The Goldman Sachs Group Inc. at EUR 37 303 000; and Prysmian Cavi e Sistemi S.r.l. and Pirelli & C. S.p.a. at EUR 67 310 000; and

— reduce the fine for the reasons set out in this application;

— annul Annex I and II in so far as they refer to Mr F. R.; and

— order the Commission to pay the applicants’ costs.

**Pleas in law and main arguments**

By its present action, the applicants seek the annulment of Commission Decision C(2014) 2139 final of 2 April 2014 in case AT.39610 — Power Cables.

In support of the action, the applicants rely on nine pleas in law.

1. First plea in law, alleging that the Commission unlawfully copied and removed forensic images from the hard disks at the applicants' premises during the inspections. The applicants submit that in so doing the Commission acted beyond its powers as provided for in Article 20(2) of Regulation 1/2003 <sup>(1)</sup>.
2. Second plea in law, alleging that the Commission breached the principle of reasonable delay for competition proceedings, as these lasted more than 62 months. The applicants contend that the Commission breached Article 6(3) of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and failed to apply an equitable reduction of the fine in line with the General Court's case law.
3. Third plea in law, alleging that the Commission breached the principle of sound administration in as far as it failed to conduct a careful and impartial investigation due to the lack of credibility of the applicants for leniency. The applicants claim that the Commission failed to interpret with caution the reliability of the leniency applicants' corporate statements and to collect the necessary corroborating evidence.
4. Forth plea in law, alleging that the Commission wrongly attributed liability to Prysmian Cavi e Sistemi S.r.l. for the period before 27 November 2001 and in so doing breached the principles of personal responsibility and of equal treatment.
5. Fifth plea in law, alleging that the Commission breached Article 23(2) of Regulation 1/2003 to the extent that it failed to allocate the responsibility among jointly and severally liable entities.
6. Sixth plea in law, alleging that the Commission breached Article 101 TFUE in so far as it failed to prove the existence of a single and continuous infringement and misinterpreted the nature and the structure of the relevant markets, whereby it violated the applicants' right of defence.
7. Seventh plea in law, alleging that the Commission failed to establish to the requisite legal standard the duration of the alleged infringement and, in particular, its starting point.
8. Eighth plea in law, alleging that the Commission breached Article 23(2) of Regulation 1/2003, the principle of equal treatment and the principle of proportionality as regards the determination of the basic amount of the fine and in particular as regards the gravity of the infringement. The applicants submit that the basic amount of the fine, as well as the entry fee, are disproportionate and should have been adjusted in light of the limited scope of the infringement, the lack of impact on prices, the loosening of the alleged coordination after 2004 and the significant impact of the costs of raw material on the value of sales. The applicants further submit that the Commission breached the principle of equal treatment as it applied different gravity factors and entry fees to addressees in comparable situations.
9. Ninth plea in law, alleging that the Commission erred in listing one specific manager of the applicants in the 'names and employment record of individuals relevant for this decision'.

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<sup>(1)</sup> Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles [101 TFEU] and [102 TFEU] (OJ 2003 L 1, p. 1).

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**Action brought on 24 July 2014 — Spain v Commission****(Case T-548/14)**

(2014/C 315/114)

*Language of the case: Spanish***Parties**

*Applicant:* Kingdom of Spain (represented by: A. Rubio González, Abogado del Estado)

*Defendant:* European Commission