

Action brought on 04 June 2018 — Rubycon and Rubycon Holdings/Commission**(Case T-344/18)**

(2018/C 294/65)

*Language of the case: English***Parties**

Applicants: Rubycon Corp. (Ina City, Japan) and Rubycon Holdings Co. Ltd (Ina City) (represented by: J. Rivas Andrés, A. Federle and M. Relange, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

- annul Commission Decision C(2018) 1768 final of 21 March 2018 relating to a proceeding under Article 101 of the TFEU and Article 53 of the EEA Agreement in Case AT.40136 — Capacitors — as far as it relates to Rubycon, in particular Article 1(h), Article 2(k), Article 2(l) and Article 4;
- order a substantial reduction in the fine imposed on Rubycon under Article 2 of the contested decision to a level that it is not discriminatory and Rubycon's exceptional level of cooperation is rewarded;
- order the Commission to pay the costs incurred by the applicants.

Pleas in law and main arguments

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

1. First plea in law, alleging that the contested decision is vitiated by an error of law as regards the Commission's refusal to grant Rubycon the benefit of 'partial immunity' under point 26 of the Commission Notice on Immunity from fines and reduction of fines in cartel cases ⁽¹⁾ for the increased gravity of the infringement.
2. Second plea in law, alleging that the contested decision is insufficiently motivated and vitiated by an error of law as regards the Commission's conclusion not to depart from the Guidelines on the method of setting fines imposed pursuant to Article 23(2)(a) of Regulation No 1/2003 ⁽²⁾ and not to grant Rubycon an additional fine reduction, in breach of the EU law principles of proportionality and equal treatment, and the principle that penalties must be specific to the offender and the offence.

⁽¹⁾ Commission Notice on Immunity from fines and reduction of fines in cartel cases (OJ 2006 C 298, p. 17).

⁽²⁾ Guidelines on the method of setting fines imposed pursuant to Article 23(2)(a) of Regulation No 1/2003 (OJ 2006 C 210, p. 2).

Action brought on 5 June 2018 — Ukrselhosprom PCF and Versobank v ECB**(Case T-351/18)**

(2018/C 294/66)

*Language of the case: English***Parties**

Applicants: Ukrselhosprom PCF LLC (Solone, Ukraine) and Versobank AS (Tallinn, Estonia) (represented by: O. Behrends, L. Feddern and M. Kirchner, lawyers)

Defendant: European Central Bank (ECB)

Form of order sought

- annul the decision of the European Central Bank ECB/SSM/2018-EE-1 WHD-2017-0012 of 26 March 2018 withdrawing the banking licence of Versobank AS;
- order the defendant to pay all the costs,

Pleas in law and main arguments

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

1. First plea in law, alleging that the ECB lacks the competence for a decision with respect to the liquidation of Versobank AS.
2. Second plea in law, alleging that the ECB failed to make its own assessment as regards the underlying anti-money laundering (AML) counter-terrorism financing (CFT) issues.
3. Third plea in law, alleging that the ECB failed to investigate and to appraise carefully and impartially all relevant aspects of the case, in particular as regards AML/CFT risks and compliance with the precepts.
4. Fourth plea in law, alleging that the ECB illegitimately denied other options, in particular to sell Versobank or to grant the opportunity for Versobank to opt for self-liquidation.
5. Fifth plea in law, alleging that the ECB violated the principle of equal treatment.
6. Sixth plea in law, alleging that the ECB violated the principle of proportionality.
7. Seventh plea in law, alleging that the ECB violated the principle of legitimate expectations and legal certainty.
8. Eighth plea in law, alleging that the ECB committed a *détournement de pouvoir*.
9. Ninth plea in law, alleging that the ECB violated the right to be heard.
10. Tenth plea in law, alleging that the ECB violated the right to defence.
11. Eleventh plea in law, alleging that the ECB failed to provide an adequately reasoned decision.

Action brought on 05 June 2018 — Nippon Chemi-Con Corporation/Commission
(Case T-363/18)
(2018/C 294/67)

Language of the case: English

Parties

Applicant: Nippon Chemi-Con Corporation (Tokyo, Japan) (represented by: H. Niemeyer, M. Röhrig, D. Schlichting and I. Stoicescu, lawyers)

Defendant: European Commission