

JUDGMENT OF THE COURT  
14 DECEMBER 1972<sup>1</sup>

**Boehringer Mannheim GmbH  
v Commission of the European Communities<sup>2</sup>**

Case 7/72

Summary

*Competition — Cartels — Prohibition — Infringement of Community rules — Community penalties and national penalties imposed by the authorities of a Member State or of a third State — Cumulation — Taking into account thereof by the Commission — Criteria*

*(EEC Treaty, Article 85, Regulation No 17 of the Council, Article 15)*

In fixing the amount of a fine the Commission must take account of penalties which have already been borne by the same undertaking for the same act in a case where penalties have been imposed for infringements of the cartel law of a Member State and, consequently, have been committed on Community territory.

The fact that the Commission takes into account a penalty imposed by the authorities of a third State presupposes that the facts established against the undertaking accused by the Commission, on the one hand, and the authorities of the third State in question, on the other, are identical.

In Case 7/72

BOEHRINGER MANNHEIM GMBH, having its registered office in Mannheim, represented by its Managers, H. Raiser and H. E. Köbner, assisted by A. Deringer, C. Tessin, H. J. Herrmann and J. Sedemund, Advocates of Cologne, with an address for service in Luxembourg at the Chambers of M. Baden, Advocate, 1 boulevard Prince-Henri,

applicant,

v

COMMISSION OF THE EUROPEAN COMMUNITIES, represented by its Legal Adviser, E. Zimmermann, acting as Agent, with an address for service in Luxembourg at the office of its Legal Adviser, É. Reuter, 4 boulevard Royal,

defendant,

<sup>1</sup> — Language of the Case: German.  
<sup>2</sup> — CMLR.