

Second, the appellant submits that the Civil Service Tribunal erred in law in its assessment of the appellant's diplomas. He contends that determination of the value of a degree must be effected in regards of the national legislation where this degree was obtained since this determination is an exclusive competence of Member States and that the Tribunal reduced arbitrarily the scope of and distorted relevant Italian legislation.

Third, the appellant claims that the Civil Service Tribunal infringed the principle of non-discrimination when assessing the value of the appellant's diplomas and comparing them to the ones of a person who has completed an undergraduate degree.

Fourth, the appellant states that the appealed judgment contains the contradictory argument as, in his opinion, the Civil Service Tribunal seems both, to take into consideration the Italian legislation and to not apply it for the solution of the case.

(¹) Not yet reported in ERC

states that Pilkington infringed Article 81 EC and Article 53 EEA before January 1999;

- order the annulment of Article 2(c) of the decision and/or order a substantial reduction of the fine;
- order that the Commission pay the applicants' costs in these proceedings.

Pleas in law and main arguments

By means of their application, the applicants seek, pursuant to Article 230 EC, the partial annulment of the Commission decision C (2008) 6815, of 12 November 2008, (Case COMP/39.125 — *Carglass*) and, in particular, its Article 1(c), which states that the applicants infringed Article 81 EC and Article 53 EEA by participating, from 10 March 1998 to 3 September 2002, in a complex of agreements and/or concerted practices in the automotive glass sector in the EEA, or in the alternative; the annulment of Article 1(c) of the contested decision insofar as it states that the applicants have infringed Article 81 EC and Article 53 EEA before 15 January 1999. In addition and accordingly, the applicants seek the annulment of Article 2(c) of the contested decision which imposes a fine on the applicants jointly and severally of EUR 370 million and/or order a substantial reduction of that fine.

Action brought on 18 February 2009 — Pilkington Group e.a. v Commission

(Case T-72/09)

(2009/C 102/38)

Language of the case: English

Parties

Applicants: Pilkington Group Ltd (St Helens, United Kingdom), Pilkington Automotive Ltd (Lathom, United Kingdom), Pilkington Automotive Deutschland GmbH (Witten, Germany), Pilkington Holding GmbH (Gelsenkirchen, Germany), Pilkington Italia SpA (San Salvo, Italy) (represented by: J. Scott, S. Wisking and K. Fountoukakos-Kyriakakos, Solicitors)

Defendants: Commission of the European Communities

Form of order sought

- order the annulment of Article 1(c) of the decision, or in the alternative, order the annulment of Article 1(c) in so far as it

The applicants put forward eleven pleas in law in support of their application, three of which concern serious errors in the decision's factual characterisation of the infringing conduct, seven of which concern errors in setting the fine, while the final one relates to the fact that the circumstances of the case as a whole would allegedly justify the exercise by the Court of its unlimited jurisdiction in order to reduce substantially the fine.

First, the applicants claim that the Commission infringed Article 81 EC and Article 53 EEA and/or Regulation (EC) No 1/2003 (¹) by incorrectly assessing the nature, and therefore substantially overstating the gravity, of any infringing conduct. It is submitted in particular that the Commission has substantially mischaracterised the infringing conduct as the latter did not amount to a fully-fledged cartel with predetermined rules, nor was it underpinned by any market-wide objective.

Second, the applicants submit that the Commission infringed Article 81 EC and Article 53 EEA and/or Regulation (EC) No 1/2003 by incorrectly assessing the duration of any infringing conduct by the applicants; specifically by concluding that they participated in a single and continuous infringement from 10 March 1998 onwards.

Third, the applicants claim that the Commission infringed Article 81 EC and Article 53 EEA and/or Regulation (EC) No 1/2003 by incorrectly assessing and substantially overstating the extent of the applicants' individual roles in any infringing conduct.

Fourth, it is submitted that the Commission infringed Article 81 EC and Article 53 EEA and/or Article 23(2) of Regulation (EC) No 1/2003 and/or the Fining Guidelines⁽²⁾ by imposing a fine which is manifestly excessive having regard to the overall nature of the conduct described in the decision; in particular by assessing the gravity percentage of relevant sales to be used in calculating the fine, pursuant to paragraphs 19 to 23 of the Fining Guidelines, at 16%.

Fifth, the applicants claim that, as a result of the error described in the second plea summarised above, the Commission also infringed Article 81 EC and Article 53 EEA and/or Article 23(2) of Regulation (EC) No 1/2003 and/or the Fining Guidelines by calculating the basic amount of the fine imposed on the applicants using a multiplier for duration of 4.5 years.

Sixth, the applicants claim that the Commission also infringed Article 81 EC and Article 53 EEA and/or Article 23(2) of Regulation (EC) No 1/2003 and/or the Fining Guidelines by failing to take into account relevant attenuating circumstances in relation to the applicants in setting the fine imposed on them.

Seventh, the applicants claim that the Commission infringed Article 81 EC and Article 53 EEA and/or Article 253 EC and/or Regulation (EC) No 1/2003 and/or the Fining Guidelines by using an inappropriate relevant sales figure to calculate the fine imposed on the applicants.

Eighth, the applicants claim that the Commission infringed Article 81 EC and Article 53 EEA and/or Regulation (EC) No 1/2003 and/or the Fining Guidelines by imposing a fine on the applicants which is, irrespective of any of the claims raised in

any of the other pleas summarised above, manifestly disproportionate having regard to the overall circumstances of the case.

Ninth, the applicants submit that the Commission infringed Article 81 EC and Article 53 EEA and/or Regulation (EC) No 1/2003 and/or the Fining Guidelines in that the fine imposed on the applicants is substantially excessive having regard to the requirement imposed on the Commission under Community law to afford equal treatment to parties when imposing fines under Article 23 of Regulation (EC) No 1/2003.

Tenth, the applicants claim that the Commission infringed Article 81 EC and Article 53 EEA and/or Article 23(2) of Regulation (EC) No 1/2003 and paragraph 32 of the Fining Guidelines by imposing a fine on the applicants which exceeds the limit prescribed by the abovementioned provisions.

Eleventh, the applicants contend that the fine imposed on them is, in all circumstances, manifestly disproportionate; excessive; and inappropriate, and therefore claim that the Court should exercise its unlimited jurisdiction pursuant to Article 229 EC and Article 31 of Regulation (EC) No 1/2003 to review the level of the fine and in doing so substantially reduce it.

(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)

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

Action brought on 18 February 2009 — Compagnie de Saint-Gobain v Commission

(Case T-73/09)

(2009/C 102/39)

Language of the case: French

Parties

Applicant: Compagnie de Saint-Gobain (Courbevoie, France)
(represented by: P. Hubert and E. Durand, lawyers)