

Action brought on 19 December 2001 by Akzo Nobel N.V. against the Commission of the European Communities

(Case T-330/01)

(2002/C 68/28)

(Language of the case: Dutch)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 19 December 2001 by Akzo Nobel N.V., established at Arnhem (Netherlands), represented by Martijn van Empel and Christoforus Raymundus Albertus Swaak, lawyers.

The applicant claims that the Court should:

- (1) annul Articles 3 and 4 of the Commission's decision of 2 October 2001 in so far as it concerns the applicant, alternatively annul Article 3 of the decision in conjunction with point 388 in the preamble thereto, by declaring void the multiplication factor of 2,5 in so far as this is applied to the applicant;
- (2) order the defendant to pay the costs.

Pleas in law and main arguments

The applicant is the parent company of Akzo Nobel Chemicals B.V., which was in turn involved, through Glucona N.V., in a cartel relating to the sale of sodium gluconate. In the contested decision, the applicant was ordered to pay a fine pursuant to Article 81 of the EC Treaty.

According to the applicant, the Commission has infringed the principle of proportionality and Article 253 of the EC Treaty by failing, when fixing the fine, to take sufficient account of the limited size of the product market and the significance of each undertaking in that market.

The applicant further pleads infringement of Articles 81 and 253 of the EC Treaty. According to the applicant, the Commission has not shown that the applicant can be held liable for the offences committed by Glucona B.V. and the applicant's subsidiary company.

Finally, given the significance of the applicant in the market, the multiplication factor applied as regards the amount of the fine infringes Articles 81 and 83 of the EC Treaty and Article 15 of Regulation No 17/62⁽¹⁾, inasmuch as, according to the applicant, the Commission may only take into account the seriousness and duration of the breach and may not take account of the economic weight attaching to the undertaking concerned. Moreover, an insufficient statement of reasons has been given for that multiplication factor.

⁽¹⁾ Regulation No 17: First Regulation implementing Articles [81] and [82] of the Treaty (O), English Special Edition 1959-1962, p. 87.

Action brought on 28 December 2001 by Karl L. Meyer against Council of the European Union and Commission of the European Communities

(Case T-333/01)

(2002/C 68/29)

(Language of the case: French)

An action against the Council of the European Union and the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 28 December 2001 by Karl L. Meyer, residing in Uturoa (French Polynesia), represented by Jean-Dominique des Arcis, lawyer, with an address for service in Luxembourg.

The applicant claims that the Court should:

- declare that the Commission of the European Communities committed an administrative fault characterised by serious failure to act and by the unlawful failure to fulfil its obligations to implement and monitor the proper application in French Polynesia of decisions on the association of the overseas countries and territories (PTOMs);
- declare that the European Commission committed an administrative fault by providing false information to the European Parliament regarding the origin of the funds borrowed from the SOCREDO development bank and the applicant's rights under decisions on the association of the PTOMs, which have direct effect;
- declare that such failures have caused damage to the applicant which the European Council and the European Commission must make good;