

The applicant further alleges: breach of the duty to give reasons for decisions, the duty to have regard for the welfare of officials and of the principle of sound administration; manifest error of assessment; breach of the principle of legitimate expectations; and, finally, misuse of powers.

Action brought on 1 August 2003 by Merck Sharp & Dohme Limited and 8 others against the Commission of the European Communities

(Case T-273/03)

(2003/C 251/27)

(Language of the case: English)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 1 August 2003 by Merck Sharp & Dohme Limited, Hoddesdon, (United Kingdom), Merck Sharp & Dohme B.V., Haalem, (Netherlands), Laboratoires Merck Sharp & Dohme-Chibret, Paris, (France), MSD Sharp & Dohme GmbH, Haar, (Germany), Merck Sharp & Dohme (Italia) SpA., Rome, (Italy), Merck Sharp & Dohme, LDA, Paço de Arcos, (Portugal), Merck Sharp & Dohme de Espana S.A., Madrid, (Spain), Merck Sharp & Dohme Ges.m.b.H., Vienna, (Austria), and VIANEX S.A., Nea Erythrea, (Greece), represented by Mr G. Berrisch and Mr P. Bogaert, lawyers.

The applicants claim that the Court should:

- annul the contested Decision;
- order the Commission to pay the applicant's costs.

Pleas in law and main arguments

The applicants are Marketing Authorization Holders of the medicinal product RENITEC and associated trade names. RENITEC contains the active ingredient 'enalapril' and is used in treatment of hypertension and heart failure.

The applicants challenge the Commission Decision C(2003) 1752 of 21 May 2003 concerning the placing on the market of medicinal products for human use containing the substance 'enalapril' by which the Commission harmonised the Summary of Product Characteristics ("SPC") for RENITEC and associated trade names. The contested Decision was adopted as a result of a referral procedure under Article 30 of Directive 2001/83/EC of the European Parliament and the Council (1).

The applicants argue that the initiation of the Article 30 procedure was illegal and that that entails the illegality of the

contested Decision. The opening of the procedure was not properly based on public health considerations. Furthermore, the referral and the opening of the procedure covered the entire content of the SPC. This goes beyond the permissible scope of an Article 30 referral, and such a procedure does not allow for the adoption of a harmonised SPC. Moreover, the opening of the procedure lacked proper reasoning.

Furthermore, the applicants submit that the harmonisation of the SPCs in the contested Decision was illegal, since the Commission did not have the power to adopt the Decision. In the alternative, the applicants argue that even if the Commission could, in principle, have harmonised the SPCs for RENITEC, the Commission has failed to identify any public health reasons justifying the harmonisation of the SPCs.

The applicants finally claim that the contested Decision is illegal because binding time-limits of the Directive were not observed and because the Commission and the Committee for Proprietary Medicinal Products failed to provide sufficient reasoning.

(1) Directive 2001/83/EC of the European Parliament and of the Council on the Community code relating to medicinal products for human use (OJ L 311 of 28.11.2001, p. 67).

Action brought on 4 August 2003 by Focus Magazin Verlag GmbH against the Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case T-275/03)

(2003/C 251/28)

(Language of the case to be determined pursuant to Article 131(2) of the Rules of Procedure — language in which the application was submitted: German)

An action against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) was brought before the Court of First Instance of the European Communities on 4 August 2003 by Focus Magazin Verlag GmbH, Munich (Germany), represented by U. Gürtler, lawyer. ECI Telecom Ltd., Petach Tikva (Israel) was also a party to the proceedings before the Board of Appeal.

The applicant claims that the Court should:

- annul Decision No 2055/2001 of the Opposition Division of the defendant of 27 August 2001 in opposition proceedings B 288680;