

JUDGMENT OF THE COURT

(Sixth Chamber)

of 25 September 2003

in Case C-170/02 P: Schlüsselverlag J.S. Moser GmbH and Others v Commission of the European Communities ⁽¹⁾

(Appeal — Action for a declaration of failure to act — Competition — Complaint — Control of concentrations — Definition of a position for the purposes of Article 232 EC — Inadmissibility)

(2003/C 275/36)

(Language of the case: German)

(Provisional translation; the definitive translation will be published in the European Court Reports)

In Case C-170/02 P, Schlüsselverlag J.S. Moser GmbH, established in Innsbruck (Austria), J. Wimmer Medien GmbH & Co. KG, established in Linz (Austria), Styria Medien AG, established in Graz (Austria), Zeitungs- und Verlags-Gesellschaft mbH, established in Bregenz (Austria), Eugen Ruß Vorarlberger Zeitungsverlag und Druckerei GmbH, established in Schwarzach (Austria), 'Die Presse' Verlags-Gesellschaft mbH, established in Vienna (Austria), and 'Salzburger Nachrichten' Verlags-Gesellschaft mbH & Co. KG, established in Salzburg (Austria), represented by M. Krüger, Rechtsanwalt: Appeal against the order of the Court of First Instance of the European Communities (Third Chamber) of 11 March 2002 in Case T-3/02 Schlüsselverlag J.S. Moser and Others v Commission [2002] ECR II-1473, seeking to have that order set aside, the other party to the proceedings being: Commission of the European Communities (Agent: K. Wiedner), the Court (Sixth Chamber), composed of: J.-P. Puissochet (Rapporteur), President of the Chamber, C. Gulmann, F. Macken, N. Colneric and J.N. Cunha Rodrigues, Judges; L.A. Geelhoed, Advocate General; R. Grass, Registrar, has given a judgment on 25 September 2003, in which it:

1. Dismisses the appeal;
2. Orders Schlüsselverlag J.S. Moser GmbH, J. Wimmer Medien GmbH & Co. KG, Styria Medien AG, Zeitungs- und Verlags-Gesellschaft mbH, Eugen Ruß Vorarlberger Zeitungsverlag und Druckerei GmbH, 'Die Presse' Verlags-Gesellschaft mbH and 'Salzburger Nachrichten' Verlags-Gesellschaft mbH & Co. KG to pay the costs.

⁽¹⁾ OJ C 156 of 29.6.2002.

JUDGMENT OF THE COURT

(First Chamber)

of 11 September 2003

in Case C-323/02: Commission of the European Communities v Hydrowatt SARL ⁽¹⁾

(Arbitration clause — Non-performance of contract — Termination — Recovery of sums advanced — Interest)

(2003/C 275/37)

(Language of the case: French)

(Provisional translation; the definitive translation will be published in the European Court Reports)

In Case C-323/02, Commission of the European Communities (Agent: H. Støvlbaek assisted by E. Cabau) v Hydrowatt SARL, established in Lyon (France): Application by the Commission under Article 238 EC for recovery of the outstanding balance of an advance paid by the applicant to the defendant under Contract No HY 134/87 FR on the completion of a project receiving financial support pursuant to Council Regulation (EEC) No 3640/85 of 20 December 1985 on the promotion, by financial support, of demonstration projects and industrial pilot projects in the energy field (OJ 1985 L 350, p. 29), the Court (First Chamber), composed of: M. Wathelet, President of the Chamber, P. Jann (Rapporteur) and A. Rosas, Judges; A. Tizzano, Advocate General; R. Grass, Registrar, has given a judgment on 11 September 2003, in which it:

1. Orders Hydrowatt SARL to pay to the Commission of the European Communities the sum of EUR 25 109, plus contractual interest of EUR 23 422,91;
2. Orders Hydrowatt SARL to pay the costs.

⁽¹⁾ OJ C 289 of 23.11.2002.