

Action brought on 14 December 2006 — Kaimer and Others v Commission**(Case T-379/06)**

(2007/C 42/50)

*Language of the case: German***Parties**

Applicants: Kaimer GmbH & Co. Holding (Essen, Germany), SANHA GmbH & Co. KG (Essen, Germany) and Sanha Italia srl (Milan, Italy) (represented by: J. Brück, lawyer)

Defendant: Commission of the European Communities

Form of order sought

- Annul the defendant's decision C(2006) 4180 final of 20 September 2006, as amended by the defendant's decision of 29 September 2006, served on applicants 1 to 3 on 5 October 2006, relating to a proceeding under Article 81 of the EC Treaty and Article 53 of the EEA Agreement (Case COMP/F-1/38.121 — Fittings);
- in the alternative, reduce the duration of the alleged infringement by applicants 1 to 3 in Article 1 of the decision and cancel or reduce the fine imposed on applicants 1 to 3 in Article 3 of the decision;
- order the defendant to pay costs.

Pleas in law and main arguments

The applicants are challenging Commission Decision C(2006) 4180 final of 20 September 2006 in Case COMP/F-1/38.121 — Fittings. In the contested decision a fine was imposed on the applicant for breach of Article 81(1) EC and Article 53(1) of the EEA Agreement. According to the Commission, the applicants took part in a series of agreements in the form of price-fixing, establishing price lists and rebates, establishing mechanisms for the implementation of price increases, dividing up markets and customers and exchanging other economic information on the market for copper fittings and copper alloy fittings.

The applicants put forward five pleas in support of their claims.

First of all, it is submitted, in particular, that the defendant based its reasoning on documents, in respect of which the applicants were not granted a fair hearing.

Secondly, the applicants submit that the Commission infringed the duty to state reasons under Article 253 EC. According to the applicants the contested decision is not adequately reasoned on the ground that the facts at issue were not properly assessed. In addition, exculpatory facts were not taken into account and evidence was incorrectly evaluated.

Furthermore, the applicants criticise the fact that the facts, as established by the Commission, were deemed to be a complex infringement contrary to Article 81(1) EC.

Fourthly, it is submitted, in the alternative, that the calculation of the fine reveals a misuse of powers in that it was based on an excessive duration of the infringement and that the applicants did not benefit from mitigating circumstances.

Finally, the applicants maintain that the Commission infringed the principle of proportionality with the amount of the fine imposed.

Action brought on 15 December 2006 — FRA.BO v Commission**(Case T-381/06)**

(2007/C 42/51)

*Language of the case: English***Parties**

Applicant: FRA.BO SpA (Milan, Italy) (represented by: R. Celli and F. Distefano, lawyers)

Defendant: Commission of the European Communities

Form of order sought

- Annul Article 2 of Commission Decision of 20 September 2006 (Case COMP/F-1/38.121 — Fittings — C(2006) 4180 final) relating to a proceeding under Article 81 EC, insofar as it relates to the amount of the fine imposed on the applicant;
- reduce the fine imposed on the applicant under the Court's jurisdiction; and
- order the Commission to pay the costs of the proceedings, including those of the applicant.

Pleas in law and main arguments

The applicant seeks the partial annulment of Commission Decision C(2006) 4180 final of 20 September 2006 in Case COMP/F-1/38.121 — Fittings, by which the Commission found that the applicant, together with other undertakings, had infringed Article 81 EC and Article 53 of the Agreement on the European Economic Area by fixing prices, agreeing on price lists, agreeing on discounts and rebates, agreeing on implementation mechanisms for introducing price increases, allocating national markets, allocating customers and exchanging other commercial information.