

Case T-56/02

Bayerische Hypo- und Vereinsbank AG

v

Commission of the European Communities

(Competition — Article 81 EC — Price-fixing agreement and ways of charging for currency exchange services — Germany — Procedure in default)

Judgment of the Court of First Instance (Fifth Chamber), 14 October 2004 II - 3497

Summary of the Judgment

Competition — Agreements, decisions and concerted practices — Agreements between undertakings — Definition — Joint intention as to the conduct to be adopted on the market — Included — Form of the expression of intentions — Not relevant
(Art. 81(1) EC)

In order for there to be an agreement within the meaning of Article 81(1) EC, it is sufficient that the undertakings in question should have expressed their joint intention to conduct themselves on the market in a specific way. As regards the form in which that common intention is expressed, it is sufficient for a stipulation to be the expression of the parties' intention to behave on the market in accordance with its terms. It follows that the concept of an agreement within the meaning of Article 81(1) EC

centres round the existence of a joint intention between at least two parties, the form in which it is manifested being unimportant so long as it constitutes the faithful expression of the parties' intention.

(see paras 59-61)