

JUDGMENT OF THE COURT  
13 FEBRUARY 1969<sup>1</sup>

Walt Wilhelm and Others  
v Bundeskartellamt<sup>2</sup>

(Reference for a preliminary ruling by the Kammergericht Berlin)

Case 14/68

S u m m a r y

1. EEC — Community legal system — Special nature — Status in relation to national legal systems — Supremacy of rules of Community law
2. Policy of the EEC — Competition rules — Cartels — Parallel action by Community and national authorities — Permissible subject to observance of Community law — Requirement of natural justice in the event of concurrent application of Community and national sanctions  
(EEC Treaty, Article 85(1); Article 87(2))
3. EEC Treaty — Principles — Discrimination on grounds of nationality — Prohibition — Disparity of treatment resulting from differences between national legislative systems not referred to  
(EEC Treaty, Article 7)

1. The EEC Treaty has established its own system of law, integrated into the legal systems of the Member States, and which must be applied by their courts. It would be contrary to the nature of such a system to allow Member States to introduce or to retain measures capable of prejudicing the practical effectiveness of the Treaty.

The binding force of the Treaty and of measures taken in application of it must not differ from one state to another as a result of internal measures lest the functioning of the Community system should be impeded and the achievement of the aims of the Treaty placed in peril.

Consequently, conflicts between the rules of the Community and national rules must be resolved by applying the

principle that Community law takes precedence.

2. So long as a regulation adopted pursuant to Article 87(2)(e) of the Treaty has not provided otherwise, national authorities may take action against an agreement in accordance with their national competition laws, even when an examination of the agreement from the point of view of its compatibility with Community law is pending before the Commission, subject however to the condition that the application of national law must not prejudice the full and uniform application of Community law or the effects of measures taken to implement it. If the existence of parallel procedures entails consecutive sanctions, a general requirement of

<sup>1</sup> — Language of the Case: German.

<sup>2</sup> — CMLR.

natural justice demands that any previous punitive decision must be taken into account in determining any sanction which is to be imposed.

- (3) Article 7 of the EEC Treaty which prohibits each Member State from applying its law differently on the ground of the nationality of the parties concerned is not concerned with

the disparities in treatment or the distortions which may result, for persons and undertakings subject to the jurisdiction of the Community, from divergences existing between the laws of the various Member States, provided that these affect all persons subject to them in accordance with objective criteria and without regard to their nationality.

### In Case 14/68

Reference to the Court under Article 177 of the EEC Treaty by the Kammergericht (Kartellsenat), Berlin, for a preliminary ruling on the interpretation of the EEC Treaty, in particular Articles 5, 7 and 85, and also of Regulation No 17 of the Council of 6 February 1962, in particular Article 9, in the action pending before that court between

1. WALT WILHELM, Director of Farbenfabriken Bayer AG, Hahnwald, Hasengarten 31,
2. HANS GÖLZ, Director of Cassella-Farbwerke Mainkur AG, Frankfurt-am-Main, Hammannstraße 6,
3. HANS ULRICH FINTELMANN, Sales Manager of Farbwerke Hoechst AG, Frankfurt-am-Main-Hoechst, Farbwerke Hoechst AG,
4. BADISCHE ANILIN- & SODA-FABRIK AG, Ludwigshafen am Rhein,
5. FARBENFABRIKEN BAYER AG, Leverkusen,
6. FARBWERKE HOECHST AG, formerly Meister Lucius & Brüning, Frankfurt-am-Main-Hoechst,
7. CASSELLA FARBWERKE MAINKUR AG, Frankfurt-am-Main-Fechenheim,

and

BUNDESKARTELLAMT, Berlin,

### THE COURT

composed of: R. Lecourt, President, A. Trabucchi (Rapporteur) and J. Mertens de Wilmars, Presidents of Chambers, A. M. Donner, W. Strauß, R. Monaco and P. Pescatore, Judges,