

Case T-89/98

National Association of Licensed Opencast Operators (NALOO)

v

Commission of the European Communities

(ECSC — UK market for electricity generating coal — Rejection of a complaint alleging discriminatory pricing and abusive royalties — Powers of the Commission — Duty to state reasons)

Judgment of the Court of First Instance (Second Chamber), 7 February
2001 II- 517

Summary of the Judgment

1. ECSC — *Provisions relating to discrimination as regards pricing and other conditions of purchase — Commission's powers*
(ECSC Treaty, Arts 4(b) and (d), 63(1) and 66(7))
2. ECSC — *Provisions relating to discrimination as regards pricing and other conditions of purchase — Commission's obligation to examine complaints*
(ECSC Treaty, Arts 4(b) and (d), 63(1) and 66(7))

3. *ECSC — Provisions relating to discrimination as regards pricing and other conditions of purchase — Commission's decision rejecting a complaint — Obligation to state reasons — Review of the Court's own motion*

1. The powers conferred on the Commission by Article 63(1) of the ECSC Treaty enable it not only to oblige the authorities of the Member States to bring to an end for the future any systematic discrimination which the Commission has found to exist but also, on the basis of that finding, to draw all the consequences as regards the effects which such discrimination may have had in relationships between purchasers and producers within the meaning of Article 4(b) even before the Commission took action, in order to ensure the effectiveness of the prohibition laid down in Article 4(b). The ECSC Treaty deals exhaustively with discrimination practised by purchasers and provides victims of such discrimination with effective judicial protection.
2. Under the ECSC Treaty, the Commission has sole jurisdiction to consider alleged infringements relating to discrimination as regards pricing and other conditions of purchase. Where it receives a complaint concerning such infringements, the Commission is bound to undertake an examination.

(see para. 85)

As a result, it is clear that the combined provisions of Articles 4(b) and 63(1) of the ECSC Treaty, on the one hand, and of Articles 4(d) and 66(7) of that Treaty, on the other, empower the Commission to consider infringements that were still occurring on the date on which the complaint against them was lodged.

3. Where, under the ECSC Treaty, a Commission decision dismissing a complaint alleging discriminatory pricing and abusive royalties is vitiated by a failure to state reasons, such a failure prevents judicial review of the substance of that decision which the Court is obliged of its own motion to undertake.

(see paras 61-63)

(see para. 114)