

ORDER OF THE COURT (FIRST CHAMBER)
OF 18 APRIL 1975 ¹

**Europemballage Corporation and Continental Can Company Inc.
v Commission of the European Communities**

Case 6/72

In Case 6/72,

EUROPEMBALLAGE CORPORATION, Brussels, and CONTINENTAL CAN COMPANY INC., New York, USA, with an address for service in Luxembourg at the Chambers of Georges Reuter, 7 avenue de l'Arsenal,

applicants,

v

COMMISSION OF THE EUROPEAN COMMUNITIES, with an address for service in Luxembourg at the offices of its Legal Adviser Emile Reuter, 4 boulevard Royal,

defendant,

THE COURT (First Chamber)

composed of: J. Mertens de Wilmars, President, R. Monaco (Rapporteur) and A. O'Keefe, Judges,

Advocate-General: G. Reischl
Registrar: A. Van Houtte

gives the following

¹ — Language of the Case: German.

ORDER

Facts

By judgment delivered on 21 February 1973 in this case, the defendant was ordered to pay the costs.

By application lodged at the Court Registry on 11 February 1975 under Article 74 of the Rules of Procedure the applicants asked the Court to fix the amount of the costs to be recovered by way of the remuneration of the lawyers who represented and assisted them before the Court.

They further asked that these costs be increased by the addition of interest at the rate of 10 % from 21 February 1973 and that they be provided with an

authenticated copy of the order fixing the costs to be recovered.

The Commission offered to pay, and has already paid, the sum of DM ... which the applicants consider does not correspond to the expenses necessarily incurred as provided for by Article 73 of the Rules of Procedure.

The Court is not called upon to tax the fees due by the parties to their lawyers and advisers but to determine the amount up to which such remuneration may be recovered from the party ordered to pay the costs.

▼

Law

- 1 Under the terms of Article 73 (b) of the Rules of Procedure of the Court, 'the following shall be regarded as recoverable costs ... expenses necessarily incurred by the parties for the purposes of the proceedings, in particular ... the remuneration of agents, advisers or lawyers'.
- 2 As Community law contains no provisions as to scale fees, the Court must be free to consider the facts of the case, taking into account the object and nature of the action, its importance from the point of view of Community law and the difficulty of the case.
- 3 Since, under the second paragraph of Article 17 of the Protocol on the Statute of the Court of Justice of the EEC, only lawyers entitled to practise before a court of a Member State may represent parties other than the States and the institutions of the Community before the Court of Justice, the fixing by the Court of the costs recoverable under Article 73 of the Rules of Procedure must be effected on the basis of the national currencies of the Member States.

- 4 In view of all these factors, the costs to be recovered by way of lawyers' remuneration in this instance must be fixed at DM, that sum to include the amount already paid.

- 5 As the right of the applicants to recovery of the whole of that sum has its legal basis in the order fixing the sum, the request as to default interest from 21 February 1973 must be rejected.

- 6 In accordance with their application and the terms of Article 74 (2) of the Rules of Procedure, the applicants shall receive an authenticated copy of this order.

On those grounds,

THE COURT (First Chamber)

hereby orders:

1. The costs payable by the defendant to the applicants is fixed at the sum of DM ;

2. An authenticated copy of this order shall be forwarded to the applicants.

Luxembourg, 18 April 1975.

A. Van Houtte
Registrar

J. Mertens de Wilmars
President of the First Chamber