



REPUBLIC OF BULGARIA
COMMISSION FOR PROTECTION OF COMPETITION

КОМИСИЯ ЗА ЗАЩИТА НА КОНКУРЕНЦИЯТА

CPC RECENT PRACTICE IN THE INDUSTRY SECTOR

CASE 1019/2013 AGROPOLYCHIM V AURUBIS BULGARIA

STUDY VISIT

“OBSERVING OF ANTIMONOPOLY LEGISLATION IN THE SPHERE OF INDUSTRY”

4-8 APRIL 2016

KAZAN, RUSSIA

I. SUBJECT OF THE CASE



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Eventually committed infringements by Aurubis Bulgaria AD in the price formation of sulphuric acid.

Art.21 of the Law on protection of competition (LPC)- Prohibition of abuse of monopoly or dominant position.

Art.102 of the Treaty on the functioning of the European Union- abuse of dominant position.

II. PARTIES



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1. AGROPOLYCHIM AD- applicant who claims his interests have been affected or threatened by an infringement.

Agropolychim is a leading manufacturer of phosphoric fertilizer on the Bulgarian market.

2. AURUBIS BULGARIA AD is a leading manufacturer of copper and copper products. In the process of manufacture, Aurubis recovers vast quantities of a by-product- sulphuric acid, which is a basic compound in the phosphoric fertilizer making process.

III. INVOLVEMENT OF AURUBIS AG- GERMANY IN THE CASE



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1. Aurubis AG is a parent company to Aurubis Bulgaria AD.
2. Obligation of CPC under the terms of COUNCIL REGULATION (EC) No 1/2003* to apply art.101 and art.102 of the TFEU** in cases that may affect trade between member states.
3. Commission notice- Guidelines on the effect on trade concept***: The concept of "trade between EU countries", the notion "may affect" and the concept of "appreciability".
4. CPC includes in its investigation the activity of Aurubis AG. Establishment of Aurubis AG as a party in the case.

*COUNCIL REGULATION (EC) NO 1/2003 OF 16 DECEMBER 2002 ON THE IMPLEMENTATION OF THE RULES ON COMPETITION LAID DOWN IN ARTICLES 81 AND 82 OF THE TREATY (NOW ART.101 & ART.102 OF TFEU)

** THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION

***COMMISSION NOTICE – GUIDELINES ON THE EFFECT ON TRADE CONCEPT CONTAINED IN ARTICLES 81 AND 82 OF THE TREATY

IV. CPC INSPECTS THE HEADQUARTERS OF AURUBIS BULGARIA



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The so called “dawn raids” are introduced in the Bulgarian Legislature in 2003.* Enables CPC to conduct:

- Search of premises, motor vehicles, used by the undertakings;
- Seizure of copies and originals of any undertakings’ documents, including computer information data;
- Interview the managers or any members of the personnel of the respective undertakings;
- A preliminary court authorization by AC judge needed;
- The Forensic laboratory of the CPC.

*ART. 50,51,52 OF THE LAW ON PROTECTION OF COMPETITION (LPC)

V. SETTING OUT A STATEMENT OF OBJECTIONS



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CPC sets out a statement of objections (SO) to Aurubis Bulgaria AD and Aurubis AG for infringement of art.21 of the Law on protection of competition and art. 102 of the Treaty on the functioning of the European Union, consisting of abuse of dominance.

The ruling for SO is final and can not be a subject of appeal. The parties have the right to access the evidence, collected in the course of the investigation and to file a letter of objection with the CPC and/or to participate in an open hearing by CPC on the matter of the stated SO.

Thank you for your attention!