

ECLA

EUROPEAN COMPANY LAWYERS ASSOCIATION
ASSOCIATION EUROPEENNE DES JURISTES D'ENTREPRISE

PRESS RELEASE

LUXEMBOURG, September 14, 2010.

The European Court of Justice has today given its long awaited decision in the AKZO Nobel case about Legal Professional Privilege. By following the recommendation of the Advocate General Ms. Kokott, the Court has confirmed the decision of the General Court which denied legal privilege in competition law matters to employed company lawyers. The Court held that company lawyers who are employed cannot act independently and therefore cannot be treated like outside counsel. ECLA's President Han Kooy said: "The consequences of this decision will be that the position of company lawyers will remain different from the position of lawyers who are working in a law firm. Companies are not well served by this decision since they must rely on the costly services of law firms to communicate with their management on European competition law matters".

"We have waited almost 30 years to get the decision of 1982 reversed and we are now back at square one. Therefore, we are very disappointed with this outcome" says Han Kooy from The Hague. "We will thoroughly study the motivation of the Court and will decide about our next steps".

AKZO Nobel appealed against a decision of Commission agents taking documents from AKZO premises near Manchester. AKZO was joined in the case by eight intervenors: ECLA, the Netherlands Bar Association (Nederlandse Orde van Advocaten), the International Bar Association, the Council of Bars in the EU (CCBE), the International Bar Association (IBA), the American Corporate Counsel Association (ACCA) and the governments of the United Kingdom, Ireland and the Netherlands.

Further information: P.C.de Jonge at pdejonge@ecla.org or
+31 70 392 044131 or
+31 6 53 50 74 77(M)

5 Avenue des Sols
Brussels 1050 Belgium