

# Court order on AstraZeneca falls short of EU demand

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A Belgian court ordered AstraZeneca to deliver 50 million doses of its

COVID-19 vaccine to EU member states by September 27—far fewer than Brussels had demanded.

Both sides claimed victory, with the European Commission stressing the firm would pay a financial penalty for each missed dose and the company promising it would easily meet the target.

The UK-based pharmaceutical company fell well short of fulfilling its contract to supply the EU in the first quarter, delivering only 30 million of the 120 million promised.

But the court, while finding in favour of the European Commission's demand for interim measures, ordered only that the company deliver 50 million more doses by the end of September.

If the firm fails to do so it would pay a fine of 10 euros per dose not delivered.

"This decision confirms the position of the Commission: AstraZeneca did not live up to the commitments it made in the contract," European Commission President Ursula von der Leyen said.

"It is good to see that an independent judge confirms this," she said.

"This shows that our European vaccination campaign not only delivers for our citizens day by day. It also demonstrates, that it was founded on a sound legal basis."

But in a statement AstraZeneca also welcomed the ruling.

"The European Commission had requested 120 million vaccine doses cumulatively by the end of June 2021, and a total of 300 million doses by the end of September 2021," the firm said.

"The judge ordered delivery of 80.2 million doses by 27 September 2021," it said—including the 30 million it already delivered in the first quarter in its calculation.

"To date, the Company has supplied more than 70 million doses to the European Union and will substantially exceed 80.2 million doses by the end of June 2021."

The firm now expects to easily meet the court-ordered delivery target within days or weeks.

Another court hearing will be held in September on the underlying case for breach of contract.

AstraZeneca argued that the court had rejected a European Commission demand ordering it to use a British production site to service the EU contract.

But European officials pointed to what they said were victories in principle in the case—with the judgment referring to AstraZeneca's "gross misconduct" in failing to make best efforts to meet its contract.

## **'Clear principles'**

In March, EU industry commissioner Thierry Breton tweeted that the company's board of directors should "exercise its fiduciary responsibility"—suggesting he thought they could be liable for the breach of contract.

The European Union's coronavirus vaccine roll-out was seriously weakened in the first months of the year by AstraZeneca's failure to meet supply targets for its relatively cheap and easy-to-store vaccine.

The UK programme, which also relied heavily on supply from the firm, was comparatively successful, leaving Brussels crying foul.

The British-Swedish firm has argued that deliveries from its UK plant run by Oxford Biomedica could serve its British contract, while production problems in the Netherlands slowed EU shipments.

But the Belgian court ruling said nothing in the firm's contracts permitted it to prioritise one over the other. It said AstraZeneca had failed to make its best efforts to meet its promise to Brussels.

An EU official seized on this to argue that the interim injunction showed "very clear principles were not respected before, but have to be respected now".

For the European Commission, this means that AstraZeneca should henceforth attempt to meet its supply contract by using all the sites at its disposal, including Oxford Biomedica.

"The contract with the United Kingdom cannot be invoked in order to refuse to use Oxford Biomedica," a Commission official said in his reading of Friday's ruling.

EU lawyers had demanded that the Belgian court order that supply source be used, but it simply ordered that the new 80 million dose target be met by September.

"All other measures sought by the European Commission have been dismissed," the firm said.

"And in particular the Court found that the European Commission has no exclusivity or right of priority over all other contracting parties."

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