

Pleas in law and main arguments

In support of the action, the applicant relies on two pleas in law.

1. The first plea in law, alleging lack of competence of the European Parliament to adopt the contested resolution, on the ground that the subject of the resolution does not fall within the competences of the European Union conferred upon it by the Member States in the Treaties, or, in the alternative, misuse of powers by the instrumental use of the legal form of a resolution in order to circumvent the requirement of amending the Treaties so as to attribute to the European Union competences which it does not possess under the Treaties.
2. Second plea in law, alleging infringement, by the resolution, of the Treaties or the legal rules relating to the application thereof, namely, infringement of Article 2 TEU, Article 4(2) TEU, Article 6(3) TEU and Article 10 TFEU, in that the resolution:
 - infringes the applicant's personality rights and interests;
 - is based on unverified and untrue information concerning the factual and legal situation in Poland;
 - contains an unreliable analysis and interpretation of public international law on the issue of abortion;
 - ascribes to the ban on the termination of pregnancy and to the protection of human life in the prenatal phase an alleged contradiction with the values indicated in Article 2 TEU in an unjustified manner, disregarding the fact that the issue of whether abortion is permissible is not part of the constitutional traditions common to the Member States, which, in turn:
 - results in discrimination against people supporting the ban on the termination of pregnancy and the protection of human life in the prenatal phase in the social, political and legal life of the European Union;
 - infringes the principle of respect for the national and constitutional identities of the Member States.

Action brought on 31 January 2022 — Conserve Italia and Conserves France v Commission

(Case T-59/22)

(2022/C 148/42)

Language of the case: Italian

Parties

Applicants: Conserve Italia — Consorzio Italiano fra cooperative agricole Soc. coop. agr. (San Lazzaro di Savena, Italy), Conserves France (Tarascon, France) (represented by: L. Di Via, M. Petite, L. Tresoldi and E. Belli, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

- declare the action admissible;
- annul European Commission Decision C(2021) 8259 of 19 November 2021 (Case AT.40127 — Canned Vegetables), relating to proceedings pursuant to Article 101 TFEU and Article 53 of the EEA Agreement, as regards the calculation of the fine;
- reduce the amount of the fine and grant any other measure that the Court considers appropriate; and
- order the European Commission to pay the costs of Conserve Italia e Conserves France relating to the present proceedings.

Pleas in law and main arguments

In support of the action, the applicants rely on two pleas in law.

1. First plea in law, alleging infringement of Article 101(1) TFEU, the third paragraph of Article 23(3) of Regulation No 1/2003⁽¹⁾ and point 33 of the Guidelines on the method of setting fines imposed pursuant to Article 23(2)(a) of Regulation No 1/2003 by error of fact and law in the classification of Conserve Italia as an undertaking rather than an association of undertakings and by a flaw in the determination of the maximum amount of the penalty.
 - The applicants challenge in this regard the incorrect classification of Conserve Italia as an ‘undertaking’, not an ‘association of undertakings’, for the purposes of applying Article 101(1) TFEU and Article 53 of the Agreement on the European Economic Area (EEA). The failure to recognise, in the decision, that Conserve Italia is an ‘association of undertakings’ — according to the specific and autonomous definition developed by European antitrust law — resulted in a serious flaw in the calculation of the maximum amount of the penalty.
2. Second plea in law, alleging infringement of Article 101(1) TFEU, Article 23 of Regulation No 1/2003 and points 14, 19, 20, 22, 24 and 25 of the Guidelines, by an error in the determination of the basic amount.
 - The applicants claim in this regard that, in the first place, when the European Commission determined the value of the sales to take as a reference for calculating the basic amount of the penalty imposed on them, it erred in taking into account the value of the sales generated throughout the EEA. In the second place, the applicants claim that the application by the European Commission of a proportion of 18 % of the value of the sales is unjustified in the present case. In addition, the European Commission complains that Conserve Italia participated in the infringement during a period corresponding to the entire duration of the infringement, failing to take into account that its participation in each agreement was far more limited and in no way continuous, since the execution of the agreements was subject to various interruptions.

⁽¹⁾ 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 (OJ 2003 L 1, p. 1).

Action brought on 28 January 2022 — Estonia v Commission

(Case T-62/22)

(2022/C 148/43)

Language of the case: Estonian

Parties

Applicants: Republic of Estonia (represented by: M. Kriisa)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul the European Commission’s Implementing Decision of 17 November 2021, in so far as it concerns the Republic of Estonia in the amount of EUR 634 057,30;
- order the defendant to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on three pleas in law:

1. First plea in law — the applicant submits that the European Commission misinterpreted and misapplied Article 21 of Commission Implementing Regulation (EU) No 809/2014,⁽¹⁾ read in conjunction with Article 30 of Commission Delegated Regulation (EU) No 640/2014,⁽²⁾ and thus came to the incorrect conclusion that the system for the submission of aid applications in Estonia does not comply with those provisions.