

Action brought on 6 March 2023 — Ege İhracatçıları Birliği and Others v Commission

(Case T-122/23)

(2023/C 155/85)

*Language of the case: English***Parties**

Applicants: Ege İhracatçıları Birliği (Konak, Türkiye), Akdeniz İhracatçıları Birliği (Yenişehir, Türkiye), İstanbul İhracatçıları Birliği (Yenibosna, Türkiye), Doğu Karadeniz İhracatçıları Birliği (Ortahisar, Türkiye), Denizli İhracatçıları Birliği (Pamukkale, Türkiye), Abaloğlu Balık ve Gıda Ürünleri AŞ (Honaz, Türkiye), Bağcı Balık Gıda ve Enerji Üretimi Sanayi ve Ticaret AŞ (Köyceğiz, Türkiye), Ertuğ Balık Üretim Tesisi Gıda ve Tarım İşletmeleri Sanayi ve Ticaret AŞ (Bornova, Türkiye), Gümüşdoğa Su Ürünleri Üretim İhracat ve İthalat AŞ (Milas, Türkiye), Kemal Balıkçılık İhracat Limited Şirketi (Sancaktepe, Türkiye), Kılıç Deniz Ürünleri Üretimi İhracat ve İthalat AŞ (Bodrum, Türkiye), Kuzuoğlu Su Ürünleri Sanayi ve Ticaret AŞ (Merkez, Türkiye), Liman Entegre Balıkçılık Sanayi ve Ticaret Limited Şirketi (Maltepe, Türkiye), More Su Ürünleri Ticaret AŞ (Bornova, Türkiye), Ömer Yavuz Balıkçılık Su Ürünleri ve Ticaret Limited Şirketi (Merkez, Türkiye), Özpekler İnşaat Taahhüt Dayanıklı Tüketim Malları Su Ürünleri Sanayi ve Ticaret Limited Şirketi (Merkezefendi, Türkiye), Premier Kültür Balıkçılığı Yatırım ve Pazarlama AŞ (Maltepe, Türkiye), Selina Balık İşleme Tesisi İthalat İhracat Ticaret AŞ (Seydikemer, Türkiye), Uluturhan Balıkçılık Turizm Ticaret Limited Şirketi (Dinar, Türkiye), Yavuzlar Otomotiv Balıkçılık Sanayi ve Ticaret Limited Şirketi (Pamukkale, Türkiye) (represented by: G. Coppo and A. Scalini, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

- Annul Commission Implementing Regulation (EU) 2022/2390 of 7 December 2022 amending the definitive countervailing duty imposed on imports of certain rainbow trout originating in Türkiye by Implementing Regulation (EU) 2021/823 following a partial interim review pursuant to Article 19 of Regulation (EU) 2016/1037 of the European Parliament and of the Council ⁽¹⁾(the Contested Regulation), insofar as the applicants are concerned;
- Order the Commission to bear the costs of the proceedings.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Contested Regulation infringes Articles 1(1), 3(2), 5 and 7 of the Basic Regulation insofar as the Commission failed to carry out a pass-through analysis with regard to the subsidy per kg of purchased trout.
2. Second plea in law, alleging that the Contested Regulation infringes Article 22(6) of the Basic Regulation insofar as the Commission applied a new methodology for the determination of the subsidy amount per kg of purchased trout.
3. Third plea in law, alleging that the Contested Regulation infringes Article 1(1), 3(2), 5 and 7 of the Basic Regulation insofar as the Commission committed manifest errors in the calculation of the subsidy amount per kg of purchased trout.
4. Fourth plea in law, alleging that the Contested Regulation infringes Article 22(6) of the Basic Regulation insofar as the Commission included large trout in the calculation of the subsidy amount per kg of purchased trout.
5. Fifth plea in law, alleging that the Contested Regulation infringes Articles 1(1), 3(2), 5 and 7 of the Basic Regulation insofar as the Commission included large trout in the calculation of the subsidy amount per kg of purchased trout.
6. Sixth plea in law, alleging that the Contested Regulation infringes Article 3 of the Basic Regulation insofar as the Commission concluded that certain export contingent loans granted to Gümüşdoğa by private banks should be attributed to the Government of Türkiye.

7. Seventh plea in law, alleging that the Contested Regulation infringes Article 5, 7(2) and 7(4) of the Basic Regulation, insofar as the Commission committed manifest errors in Gümüşdoğa's subsidy margin calculation.

(¹) OJ 2022, L 316, p. 52.

Action brought on 9 March 2023 — VC v EU-OSHA

(Case T-126/23)

(2023/C 155/86)

Language of the case: Spanish

Parties

Applicant: VC (represented by: J. Rodríguez Cárcamo and S. Centeno Huerta, lawyers)

Defendant: European Agency for Safety and Health at Work (EU-OSHA)

Form of order sought

The applicant claims that the Court should:

- in accordance with 263 TFEU, annul, in its entirety, Decision 2023/01 of 18 January 2023 of the interim Executive Director of EU-OSHA on exclusion of the applicant from participation in procedures for public procurement, grants, prizes, awards and financial instruments covered by the general budget of the European Union and from participation in award procedures covered by the European Development Fund (EDF) on the basis of Council Regulation (EU) 2018/1877; (¹)
- in the alternative, in accordance with Article 261 TFEU and Article 143(9) of Regulation 2018/1046 (²) ('the Financial Regulation'), replace the exclusion measure with a financial penalty and/or annul Article 4 of the contested decision relating to the publication measure;
- order EU-OSHA to pay the costs of the present proceedings.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of Article 106(2) of Regulation 966/2012, (³) as amended by Regulation 2015/1929 (⁴) ('the Financial Regulation applicable from January 2016), the right to effective judicial protection guaranteed by Article 47 of the Charter of Fundamental Rights of the European Union, the rule of law declared in Article 19(1) TEU, the principle of sincere cooperation established in Article 4(3) TEU, and infringement of Article 325(1) TFEU. The applicant alleges that the contested decision did not respect the suspension decision adopted by the competent national judicial authority.
2. Second plea in law, alleging infringement of Article 106(7)(a) of the Financial Regulation applicable from January 2016 (equivalent to Article 136(6)(a) of the Financial Regulation), and serious errors of assessment. The applicant alleges that the competent authorising officer, as a result of serious errors of assessment, found that the corrective actions taken by the applicant were insufficient not to apply the exclusion measure.
3. Third plea in law, alleging infringement of Article 106(3) and (7)(a) and (d) of the Financial Regulation applicable from January 2016, and of the principle of proportionality, on the ground that the competent authorising officer made manifest errors of assessment.