

Action brought on 24 April 2018 — Iberpotash v Commission**(Case T-257/18)**

(2018/C 221/40)

*Language of the case: English***Parties***Applicant:* Iberpotash, SA (Suria, Spain) (represented by: N. Niejahr and B. Hoorelbeke, lawyers)*Defendant:* European Commission**Form of order sought**

The applicant claims that the Court should:

- annul Commission Decision (EU) 2018/118 of 31 August 2017 on State aid SA.35818 (2016/C) (ex 2015/NN) (ex 2012/CP) implemented by Spain for Iberpotash (notified under document C(2017) 5877);⁽¹⁾
- in the alternative:
 - annul the contested decision to the extent that it finds Measure 1 to contain State aid and orders its recovery with interest from the applicant; and/or
 - annul the contested decision insofar as it determines the amount of unlawful but compatible aid received by the applicant contained in Measure 4 to amount to EUR 3 902 461,30, and the illegal aid to be recovered with interest from the applicant to amount to EUR 3 958 109,70;
- order the Commission to bear its own costs and the applicant's costs in connection with the present proceedings.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Commission violated Article 107(1) TFEU by finding that Measure 1 involves a transfer of State resources.
2. Second plea in law, alleging that the Commission violated Article 107(1) TFEU by finding that Measure 1 confers a selective economic advantage on the applicant. In the alternative, it is alleged that the Commission failed to correctly determine the amount of unlawful and incompatible State aid, if any, arising from Measure 1, in violation of Article 16 (1) of the Procedural Regulation.⁽²⁾
3. Third plea in law, alleging, in the alternative, that the Commission violated Article 16(1) of the Procedural Regulation regarding Measure 1 by ordering recovery because such recovery violates the applicant's legitimate expectations and/or the principle of legal certainty.
4. Fourth plea in law, alleging that the Commission violated Article 107(1) TFEU by finding that Measure 4 confers a selective economic advantage on the applicant.

5. Fifth plea in law alleging, in the alternative, that the Commission violated Article 16(1) of the Procedural Regulation by failing to correctly determine the amount of unlawful and incompatible aid, if any, arising from Measure 4.

⁽¹⁾ OJ 2018 L 28, p. 25.

⁽²⁾ Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ 2015 L 248, p. 9).

Action brought on 23 April 2018 — Zakłady Chemiczne ‘Siarkopol’ Tarnobrzeg v EUIPO — EuroChem Agro (Unifoska)

(Case T-259/18)

(2018/C 221/41)

Language in which the application was lodged: English

Parties

Applicant: Zakłady Chemiczne ‘Siarkopol’ Tarnobrzeg sp. z o.o. (Tarnobrzeg, Poland) (represented by: M. Kondrat, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: EuroChem Agro GmbH (Mannheim, Germany).

Details of the proceedings before EUIPO

Applicant of the trade mark at issue: Applicant

Trade mark at issue: EU word mark Unifoska — Application for registration No 015017841

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 7 February 2018 in Case R 1503/2017-5.

Form of order sought

The applicant claims that the Court should:

— annul the contested decision and refer the case back to the EUIPO for reconsideration;

or

— alter the contested decision by stating that there are no relative grounds for refusal of registration of the EUTMA 01501784 ‘Unifoska’ for all goods in class 1 and the trademark shall be registered;

— award the costs in the Applicant’s favor.

Pleas in law

— Infringement of Article 8(1)(b) of Regulation No 2017/1001;

— Infringement of principle of the protection of legitimate expectations and principle of legal certainty.
