

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 contested measures are vitiated by errors of law and manifest errors of assessment because the Council failed to take into account the specific nature of sport and/or the fundamental right of cultural diversity when it imposed the restrictive measures upon the applicant which is a European professional football club with an important sporting and cultural role.
2. Second plea in law, alleging that the contested measures breach the obligation to state adequate reasons for the inclusion of the applicant on the lists of persons and entities to which restrictive measures apply.
3. Third plea in law, alleging that the contested measures infringe the rights of defence and the right to a fair hearing in that they do not provide the applicant with the possibility to effectively exercise its rights of defence, including the right to be heard. Given the close relationship between the rights of the defence and the right to effective judicial review, the applicant's right to effective judicial remedy has also been infringed.
4. Fourth plea in law, alleging that the contested measures infringe the right to property in that they amount to an unjustified interference of the applicant's ability to function as a European professional football club and to fulfil its social, educational and cultural functions.
5. Fifth plea in law, alleging that the contested measures infringe the principle of proportionality, in particular as regards the applicant's right to property and its right of cultural diversity, in particular as they do not provide for any safeguards to ensure that the applicant can continue to exercise its sporting and cultural functions as a European professional football club.

Action brought on 15 June 2012 — Chyzh and Others v Council

(Case T-276/12)

(2012/C 250/33)

Language of the case: English

Parties

Applicants: Yury Aleksandrovich Chyzh (Minsk, Belarus); Triple TAA (Minsk, Belarus); NefteKhimTrading STAA (Minsk, Belarus); Askargoterminal ZAT (Minsk, Belarus); Bereza Silicate Products Plant AAT (Bereza District, Belarus); Variant TAA (Berezovsky District, Belarus); Triple-Dekor STAA (Minsk, Belarus); Kvarts-MelProm SZAT (Khotislav, Belarus); Altersolutions SZAT (Minsk, Belarus); Prostoremarket SZAT (Minsk, Belarus);

AquaTriple STAA (Minsk, Belarus); Rakovsky brovar TAA (Minsk, Belarus); TriplePharm STAA (Logoyisk, Belarus); and Triple-Veles TAA (Molodechno, Belarus) (represented by: D. O'Keeffe, Solicitor, and B. Evtimov, lawyer)

Defendant: Council of the European Union

Form of order sought

- Annul Council implementing Regulation (EU) No 265/2012 of 23 March 2012 implementing Article 8a(1) of Regulation (EC) No 765/2006 concerning restrictive measures in respect of Belarus (OJ L 87, p. 37), in so far as it concerns the applicants;
- Annul Council implementing Decision 2012/171/CFSP of 23 March 2012 implementing Decision 2010/639/CFSP concerning restrictive measures against Belarus (JO L 87, p. 95), in so far as it concerns the applicants; and
- Order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging
 - that the contested Council measures breach the obligation to state adequate reasons for the inclusion of the applicants on the list of persons to whom restrictive measures apply, or, in the alternative, that the Council's reasoning is vitiated by manifest errors of assessment;
2. Second plea in law, alleging
 - that the contested Council measures infringe rights of the defence and the right to a fair hearing in that they do not provide the applicants with the possibility to effectively exercise their rights, in particular the right to be heard. Given the close relationship between the rights of the defence and the right to effective judicial review, the applicants' right to effective judicial remedy has also been infringed.

Action brought on 29 June 2012 — Poland v Commission

(Case T-290/12)

(2012/C 250/34)

Language of the case: Polish

Parties

Applicant: Republic of Poland (represented by: B. Majczyna and M. Szpunar, Agents)

Defendant: European Commission

Form of order sought

- Annul Article 1(2), (3), (4), (6), (12) and (13), Annexes I and II, and Article 2(1) to (3), in conjunction with Article 3, of Commission Implementing Regulation (EU) No 302/2012 of 4 April 2012 amending Implementing Regulation (EU) No 543/2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors (OJ L 99 of 5.4.2012, p. 21);
- Order the European Commission to pay the costs of the proceedings.

Pleas in law and main arguments

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

1. First plea in law:
 - infringement of the principles of legal certainty and of the protection of legitimate expectations;
2. Second plea in law:
 - infringement of the principle of proportionality;
3. Third plea in law:
 - breach of Article 296 TFEU by virtue of the inadequate reasons given for the contested provisions;
4. Fourth plea in law:
 - infringement of the principles of solidarity and of loyal cooperation.

Action brought on 2 July 2012 — Health Food Manufacturer's Association and Others v Commission

(Case T-296/12)

(2012/C 250/35)

Language of the case: English

Parties

Applicants: The Health Food Manufacturer's Association (East Molesey, United Kingdom); Quest Vitamins Ltd (Birmingham, United Kingdom); Natures Aid Ltd (Kirkham, United Kingdom); Natuur- & gezondheidsProducten Nederland (Ermelo, Netherlands); et New Care Supplements BV (Oisterwijk, Netherlands) (represented by: B. Kelly and G. Castle, Solicitors, and P. Bogaert, lawyer)

Defendant: European Commission

Form of order sought

- Annul Commission Regulation (EU) No 432/2012 of 16 May 2012 establishing a list of permitted health claims

made on foods, other than those referring to the reduction of disease risk and to children's development and health (OJ L 136, p. 1);

- Annul Commission Decision of 16 May 2012 adopting a list of permitted health claims and creating a list of so-called on-hold health claims that are neither rejected nor authorised by the Commission;
- Order the defendant to pay the costs.

Pleas in law and main arguments

In support of their action, the applicants rely on three pleas in law, alleging that the contested Regulation is illegal for the following reasons:

1. First plea in law, that
 - the adoption of a permitted list of general function health claims while keeping certain claims under the transitional measures of Article 28 of Regulation (EC) No 1924/2006 (i.e. splitting the assessment process and adopting a partial list of claims under article 13(1)) lacks any legal basis. It further infringes the principles of good administration, legal certainty and non-discrimination for a number of reasons, including: there was no justification for the splitting of the process; the split lacked transparency; there was no consultation or adequate reasons given for the split; some claims are put 'on-hold' and continue to benefit from the existing transitional periods under Regulation (EC) No 1924/2006 (despite the legal uncertainty of those transitional periods).
2. Second plea in law, that
 - the non-inclusion of many health claims in the permitted list infringes Regulation (EC) No 1924/2006 by applying improper assessment criteria, infringes the principle of good administration, legal certainty and the duty of collaboration with national food authorities and the obligation to provide adequate reasons.
3. Third plea in law, that
 - if the pleas submitted above are not upheld, the applicants allege that the Regulation (EC) No 1924/2006 itself is void because of breach of the right to be heard and breach of legal certainty. The illegality of Regulation (EC) No 1924/2006 is invoked in this application pursuant to Article 277 TFEU and supports the illegality of Regulation (EU) No 432/2012.