

- Annulment of the following provisions of Commission Regulation (EC) No 1572/2006 of 18 October 2006 amending Regulation (EC) No 824/2000 establishing procedures for the taking-over of cereals by intervention agencies and laying down methods of analysis for determining the quality ⁽¹⁾ of cereals ('the Regulation'):
 - Article 1(1) insofar as it refers to maize;
 - Article 1(3), amending Article 9(b) of Regulation No 824/2000, insofar as it refers to maize;
 - the value relating to the specific weight required for maize appearing in line E of the table given in point 1 of the annex, and
 - Table III in point 2 of the annex insofar as it refers to maize.
- An order that the Commission of the European Communities pay the costs.

Pleas in law and main arguments

The applicant seeks the partial annulment of Article 1 of Regulation No 1572/2006 and the annex thereto because it considers that they are unlawful.

It relies on the following pleas in support of its application:

- The Commission has breached the legitimate expectations of the producers by introducing during the financial year a requirement relating to the specific weight of maize, and the principles of legal certainty and proportionality by allowing an inordinately short preparatory period between the date of publication and the date of entry into force and by failing to take account of the need for gradual adjustment.
- The Commission did not have the authority to lay down the requirement relating to the specific weight of maize.
- In the event that it is considered that the Commission was empowered to lay down that requirement, the applicant submits that the defendant has exceeded its powers, given that it significantly altered the intervention regime for maize in practice under the pretext of amending the qualitative parameters for intervention.
- Even if it is considered that the Commission was empowered to lay down the requirement relating to the specific weight of maize, that institution made a manifest error of assessment, in that, by establishing a criterion for the average quality of maize, it did not take account of the fact that the maize produced in the Community is used mainly for animal fodder.

- The Commission has failed to fulfil its obligation under Article 253 EC to state the reasons on which legal acts are based.
- The Commission has infringed the internal rules of the Management Committee for Cereals in not respecting the time-limit laid down by those rules.

⁽¹⁾ OJ L 290, 20.10.2006, p. 29.

Action brought on 7 November 2006– FMC Chemical and Arysta Lifesciences v EFSA

(Case T-311/06)

(2006/C 326/138)

Language of the case: English

Parties

Applicants: FMC Chemical SPRL (Brussels, Belgium) Arysta Lifesciences SAS (Nogueres, France) (represented by: C. Mereu, K. Van Maldegem, lawyers)

Defendant: European Food Safety Authority (EFSA)

Form of order sought

- Declare the present application admissible and well founded;
- annul the EFSA's Conclusion Report, titled 'Conclusion regarding the peer review of the pesticide risk assessment of the active substance Carbofuran';
- order the EFSA and/or the European Commission by way of incidental request in accordance with Articles 63 and 64 of the Court's Rules of Procedure, to produce the proposal regarding the (non) inclusion of Carbofuran in Annex I to Directive 91/414/EEC it intends to present to the Standing Committee on the Food Chain and Animal Health for a vote at its 22/24 November 2006 meeting, or any other meeting;
- declare the illegality and inapplicability vis-à-vis the applicants and the review of their Carbofuran dossiers of Article 20 of Commission Regulation (EC) No 1490/2002;

- order the defendant to compensate the applicants for the damages incurred as a result of the contested measure, and to hold at this stage by interlocutory statement that the defendant is obliged to compensate the applicants for the damages they incurred and to reserve the fixing of the amount of compensation either by agreement between the parties or by the Court in the absence of such agreement;
- order the defendant to pay the costs and expenses in these proceedings.

Action brought on 17 November 2006– FMC Chemical v EFSA

(Case T-312/06)

(2006/C 326/139)

Language of the case: English

Pleas in law and main arguments

The application at stake is made pursuant to Article 230 EC for the annulment of the decision of the European Food Safety Authority (‘EFSA’) of 28 July 2006, concluding on the evaluation of the active substance Carbofuran under Directive 91/414/EEC ⁽¹⁾ (‘The Plant Protection Products Directive’ or ‘PPPD’), in so far as it fails to include or to consider critical new evidence on Carbofuran submitted by the applicants to the designated Belgian Rapporteur Member State and to the extent it introduces new data requirements based on the retroactive application of new guidance documents, which the applicants could not foresee, and for which it was scientifically not possible to conduct and submit new studies in time.

Specifically, the applicants claim that the contested measure represents the final procedural step in the administrative assessment of the substance under Commission Regulation (EC) No 451/2000 of 28 February 2000 ⁽²⁾ laying down the detailed rules for the implementation of the second and third stages of the work programme referred to in Article 8(2) of the PPPD, as amended by Commission Regulation 1490/2002 ⁽³⁾ for which the applicants submit they are the sole notifiers and main data submitters.

The applicants hereby also raise a plea of illegality against Article 20 of Regulation (EC) No 1490/2002, which provides for a mandatory involvement of EFSA in the review of active substances covered by the second stage of the review, and by requiring the EFSA to assess whether the substance in question may be expected to meet the safety requirements of the PPPD and be included in its Annex I. Precisely, the applicants contend that the above-mentioned regulation, which entered into force at a time when the applicants had completed their complete dossiers, cannot retroactively apply to the ongoing Carbofuran review and consequently the contested measure cannot serve as a basis for a Commission proposal regarding the inclusion of Carbofuran in Annex I of the PPPD.

Moreover, the applicants seek compensation for the damages caused to them as a result of the defendant’s conduct during the Carbofuran evaluation process and in the adoption of the contested measure.

⁽¹⁾ OJ 1991 L 230, p. 1.
⁽²⁾ OJ 2000 L 55, p. 25.
⁽³⁾ OJ 2002 L 224, p. 23.

Parties

Applicant: FMC Chemical SPRL (Brussels, Belgium) (represented by: C. Mereu, K. Van Maldegem, lawyers)

Defendant: European Food Safety Authority (EFSA)

Form of order sought

- Declare the present application admissible and well founded;
- annul the EFSA’s Conclusion Report, titled ‘Conclusion regarding the peer review of the pesticide risk assessment of the active substance Carbosuflan’;
- order the EFSA and/or the European Commission by way of incidental request in accordance with Articles 63 and 64 of the Court’s Rules of Procedure, to produce the proposal regarding the (non) inclusion of Carbosuflan in Annex I to Directive 91/414/EEC it intends to present to the Standing Committee on the Food Chain and Animal Health for a vote at its 22/24 November 2006 meeting, or any other meeting;
- declare the illegality and inapplicability vis-à-vis the applicant and the review of their Carbosuflan dossiers of Article 20 of Commission Regulation (EC) No 1490/2002;
- order the defendant to compensate the applicants for the damages incurred as a result of the contested measure, and to hold at this stage by interlocutory statement that the defendant is obliged to compensate the applicants for the damages they incurred and to reserve the fixing of the amount of compensation either by agreement between the parties or by the Court in the absence of such agreement;
- order the defendant to pay the costs and expenses in these proceedings.