

Pleas in law and main arguments

The applicant seeks the annulment of the Commission's Decision in Case COMP/35.821 of 18 June 2007 by which the Commission rejected the applicant's complaint made in 1990 that members of its association had been the victims of a price discrimination as the prices paid by the Central Electricity Generating Board ('CEGB') between 1984-1990 for coal produced by members of the applicant was lower than the prices paid by the CEGB for coal produced by the British Coal Corporation ('BCC'), without there being any objective justification for that difference in treatment.

The Commission found in the contested decision that there was a difference between the prices paid by the CEGB to the applicant's members and the prices paid to the BCC, but sustained that the BCC and the applicant's members did not supply coal under comparable conditions. The CEGB was therefore justified in paying higher prices for the BCC's coal in order to ensure that it would meet its statutory duty to supply the electricity needed in the United Kingdom.

In support of its application, the applicant contends that the Commission's finding that the BCC and the applicant's members did not supply coal under comparable conditions was not supported by the evidence upon which the Commission based its decision.

Furthermore, the applicant submits that the payment of a premium price for the BCC's coal would constitute state aid that had not been notified and which would therefore be unlawful.

Moreover, the applicant alleges that the Commission's findings are inconsistent with a previous Commission decision from 1991 in respect of the same complaint.

As regards the Commission's rejection of the applicant's complaint in relation to the period from 1984 to 1986 on grounds of inadmissibility and lack of Community interest, the applicant submits that:

- the Commission erred in finding that it no longer enjoys an exclusive competence under the ECSC Treaty to rule on the existence of discrimination in the said period;
- the Commission erred in finding that the applicant's members can bring claims before the national courts in respect of the said period; and
- the delay in resolving the issues raised in the applicant's complaint from 1990 is the result of previous legal errors made by the Commission.

Action brought on 24 August 2007 — Jones e.a. v Commission

(Case T-320/07)

(2007/C 247/61)

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

Applicants: Glenn Jones and Daphne Jones (Neath, Wales), FForch-y-Garron Coal Company Ltd (Neath, Wales), Desmond Ivor Evans and David Raymond Evans (Maesteg, Wales) (represented by: D.I.W. Jeffreys, Solicitor)

Defendant: Commission of the European Communities

Form of order sought

- Annulment of Commission Decision of 18 June 2007 in Case COMP/37.037 concerning the applicants' complaint of unlawful price discrimination by the Central Electricity Generating Board;
- order the Commission to pay the applicants' costs of these proceedings.

Pleas in law and main arguments

This is an application lodged pursuant to Article 230 EC seeking annulment of Commission Decision of 18 June 2007 (Case COMP/37.037 — SWSMA) rejecting a complaint according to which pricing practices adopted by the Central Electricity Generating Board in the period 1984 to 1990 in relation to coal producers constituted unlawful price discrimination towards private coal producers including the applicants, which was contrary to Article 4(b) of the European Coal and Steel Community Treaty then in force.

The applicants contend that, in reaching this decision, the Commission has committed a number of fundamental errors of law and/or of appreciation and thus, the decision should be annulled.

The applicants claim that the Commission was wrong as a matter of law to assess the question of price-discrimination on a country-wide basis rather than with reference to the local market in which the complainants operated. Moreover, the applicants submit that the Commission was wrong in stating that the licensed private mines could only supply limited amounts of coal and on a short term basis, taking into account the size of the mining facilities and British Coal Corporation's licensing policy. Finally, the applicants claim that the Commission was wrong to conclude that since the ECSC Treaty has expired and that it no longer enjoys exclusive competence with regards to infringements of the latter, a Commission decision was no longer required before judicial protection was sought before national courts.

Action brought on 28 August 2007 — Plant and Others v Commission

(Case T-324/07)

(2007/C 247/62)

Language of the case: English

Parties

Applicants: Gerry Plant (Varteg Pontypool, United Kingdom), Mary Kathleen Plant (Varteg Pontypool, United Kingdom), Dennis Jones (Neath, United Kingdom), William Meyrick (Swansea, United Kingdom), J.G. Evans (Ammanford, United Kingdom), David Vivian Austin (Neath, United Kingdom), D. Powell (Neath, United Kingdom), James Rowland McCann (Neath, United Kingdom), D. B. Diplock (Neath, United Kingdom), John Phillips (Neath, United Kingdom) and Richard Thomas Kingston (Swansea, United Kingdom) (represented by: W. Graham, Solicitor)

Defendant: Commission of the European Communities

Form of order sought

- Annul the Commission's Decision dated 18 June 2007 in Case No. 37037 — SWSMA;
- take such further action as the Court may think just;
- order that the Commission pay the costs of the proceedings.

Pleas in law and main arguments

The pleas in law and main arguments relied on by the applicants are similar to those relied on in Case T-318/07 *National Association of Licensed Opencast Operators v Commission*.

Action brought on 30 August 2007 — Cheminova and Others v Commission

(Case T-326/07)

(2007/C 247/63)

Language of the case: English

Parties

Applicants: Cheminova A/S (Harboøre, Denmark), Cheminova Agro Italia Srl (Rome, Italy), Cheminova Bulgaria EOOD (Sofia, Bulgaria), Agrodan SA (Madrid, Spain) and Lodi SAS (Grand Fougeray, France) (represented by: C. Mereu and K. Van Maldegem, lawyers)

Defendant: Commission of the European Communities

Form of order sought

- Order the annulment of Commission Decision 2007/389/EC;
- order the defendant to pay all costs and expenses in these proceedings.

Pleas in law and main arguments

Council Directive 91/414 concerning the placing of plant protection products on the market ⁽¹⁾ provides that Member States shall not authorise a plant protection product unless its active substances are listed in Annex I and any conditions laid down therein are fulfilled. The applicants seek the annulment of Commission Decision 2007/389/EC of 6 June 2007 concerning the non-inclusion of malathion in Annex I to Council Directive 91/414/EEC and the withdrawal of authorisations for plant protection products containing that substance ⁽²⁾.

In support of their application, the applicants submit that the contested decision is scientifically incomplete and flawed in that it fails to consider all the scientific evidence on malathion submitted to the defendant. According to the applicants, it furthermore violates Articles 4(1), 5(1) of Directive 91/414 and Article 95(3) EC as the defendant refused to peer review the most recent data.