

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

1. First plea in law, concerning the European Commission's lack of competence to delegate the imposition of an administrative charge to the ECHA and the ECHA's lack of competence to adopt Decision MB/29/2010 of its Management Board of 12 November 2010 ('on the classification of services for which charges are levied').

— The applicant alleges in that regard that, by providing in Article 13(4) of the Charges Regulation that the ECHA is to levy an administrative charge distinct from the registration charge, which is the only charge that is permitted by the provisions establishing the ECHA, the Commission goes beyond that which is permitted by those provisions, and in that regard Article 114 TFEU is not a sufficient basis for the competence of the Commission or the ECHA.

2. Second plea in law, concerning the unlawfulness of the delegation of powers contained in Article 13(4) of the Charges Regulation.

— The applicant alleges in that regard that the provision referred to leaves it to the discretion of the ECHA to establish an administrative charge without defining its objectives, content, scope or duration, which renders Article 2 of Decision MB/29/2010, and in particular Table 1 in the Annex thereto, unlawful.

3. Third plea in law, concerning the punitive nature of Decision MB/29/2010.

— The applicant alleges in that regard that, although pursuant to Article 74(1) of the ECHA basic regulation the Agency is authorised to charge for the services it supplies, in accordance with Article 74(3) of that text the charges are to be fixed in such a way as to ensure that the revenue derived from them, when combined with other sources of the Agency's revenue, is sufficient to cover the cost of the services delivered. However, an administrative charge for the ECHA's prior checks in the fixed amount of EUR 14 500 cannot be justified and is disproportionately high in relation to the services delivered. Rather, those administrative charges are in the nature of a penalty.

4. Fourth plea in law, concerning infringement of the principle of legal certainty.

— It is alleged in that respect that the REACH-IT system did not provide sufficient information to enterprises to enable them to know the penalties which may be incurred in respect of the obligation they are under to verify their size. Moreover, the Agency did not take into account either the applicant's lack of intention or the voluntary correction of the error made.

5. Fifth plea in law, concerning infringement of the principle of proportionality in the establishment of the administrative charges concerned.

Action brought on 10 October 2011 — Belgium v Commission

(Case T-538/11)

(2011/C 347/75)

Language of the case: Dutch

Parties

Applicant: Kingdom of Belgium (represented by: C. Pochet and J. Halleux, Agents, and by L. Van den Hende, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the Commission Decision of 27 July 2011 concerning the State aid for financing screening of transmissible spongiform encephalopathies (TSE) in bovine animals implemented by Belgium (State aid C 44/08 (ex NN 45/04));

— order the Commission to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on one plea in law.

1. First plea in law, alleging infringement of Article 107(1) TFEU.

— The measures implemented by Belgium do not entail a selective advantage for farmers, slaughterhouses and entities that process, handle, sell or trade in bovine animal products that are subject to compulsory BSE testing under the applicable legislation.

Action brought on 4 October 2011 — Melkveebedrijf Overenk and Others v Commission

(Case T-540/11)

(2011/C 347/76)

Language of the case: Dutch

Parties

Applicants: Melkveebedrijf Overenk B.V. (Sint Anthonis, Netherlands); Maatschap Veehouderij Kwakernaak (Oosterwolde, Netherlands); Mulders Agro VOF (Heerle, Netherlands); Melkbedrijf Engelen V.O.F. (Grashoek, Netherlands); Melkveebedrijf de Peel B.V. (Asten, Netherlands); and M. Moonen (Nederweert, Netherlands) (represented by: P. Mazel and A. van Beelen, lawyers)

Defendant: European Commission