

Republic); Syngenta Crop Protection A/S (Copenhagen, Denmark); Syngenta France SAS (Saint-Sauveur, France); Syngenta Agro GmbH (Maintal, Germany); Syngenta Hellas AEBE — Προϊοντα Φυτοπροστασιες & Sporoi (Anthoussa Attica, Greece); Syngenta Növényvédelmi kft (Budapest, Hungary); Syngenta Crop Protection SpA (Milan, Italy); Syngenta Crop Protection BV (Roosendaal, Netherlands); Syngenta Polska sp. z o.o. (Warsaw, Poland); Syngenta Agro Srl (Bucharest, Romania); Syngenta Slovakia s.r.o. (Bratislava, Slovakia); Syngenta Agro, SA (Madrid, Spain); Syngenta UK Ltd (Cambridge, United Kingdom) (represented by: D. Waelbroeck, lawyer, D. Slater, Solicitor, and I. Antypas, lawyer)

Defendants: European Commission and European Union, as represented by the European Commission

Form of order sought

The applicants claim that the Court should:

- Annul Commission Implementing Regulation (EU) No 485/13 ('Contested Regulation') in its entirety or, in the alternative, to annul the Contested Regulation to the extent it imposes restrictions on thiamethoxam ('TMX'), seeds treated with TMX and products containing TMX;
- Condemn the EU as represented by the Commission to repair any damage suffered by the applicants as a result of the Commission's breach of its legal obligations, including interest;
- Order the Commission to pay all costs and expenses of the proceedings.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Contested Regulation imposed restrictions on TMX that were not based on sound science and failed to respect due process, in violation of Articles 4,12(2), 21, 49 and Annex II of Regulation 1107/2009 ⁽¹⁾ and the principles of legal certainty and rights of the defence. In particular, the European Food Safety Authority's (EFSA) review and the subsequent restrictions imposed were not based on any new scientific evidence indicating risk, ignored significant amounts of relevant science, contained material errors in key parameters and were not based on any agreed methodology for conducting a risk assessment. Moreover, EFSA did not find any risk for bee colony survival or of sublethal effects and presented no negative conclusions at all based on actual field studies. The process of review and adoption of the restrictive measures was rushed to the extent that the scientific review could not be thoroughly carried out and stakeholders were not given adequate opportunities to give input.

2. Second plea in law, alleging that the the Contested Regulation imposed disproportionate and discriminatory restrictions on TMX, based on purely hypothetical risk, without conducting a thorough scientific assessment or any impact assessment at all, in violation of the precautionary principle and the principle of proportionality.
3. Third plea in law, alleging the Contested Regulation was adopted in violation of the principle of good administration and the duty of care, following an unreasonable mandate given to EFSA, a rushed procedure that failed to allow proper input from stakeholders, failed to take relevant science into account and without any impact assessment.

⁽¹⁾ Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC (OJ 2009 L 309, p. 1)

Action brought on 26 August 2013 — SNCM v Commission

(Case T-454/13)

(2013/C 325/69)

Language of the case: French

Parties

Applicant: Société nationale maritime Corse Méditerranée (SNCM) (Marseille, France) (represented by: A. Winckler, F.-C. Laprevote, J.-P. Mignard and S. Mabile, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul, on the basis of Article 263 TFEU, Commission Decision C(2013) 1926 of 2 May 2013;
- in the alternative, partially annul the decision to the extent that the Commission held that the amount of aid includes the elements referred to in paragraph 218 of the decision;
- order the Commission to pay all the costs.

Pleas in law and main arguments

By its application, the applicant seeks the annulment of Commission Decision C(2013) 1926 final of 2 May 2013, by which the Commission, first of all, classified as State aid the financial compensation paid to the Société nationale maritime Corse Méditerranée (SNCM) and to the Compagnie Méridionale de Navigation (CNM) in respect of maritime transport services provided between Marseille and Corsica for the years 2007-2013 in the context of a public service agreement. Next, the Commission declared to be compatible with the internal market the compensation paid to the SNCM and to CNM for transport services provided throughout the whole year ('the basic service'), but declared to be incompatible with the internal market the compensation paid with respect to services provided during the peak periods, namely the Christmas period, February, spring-autumn and/or summer ('the additional service'). Finally, the Commission ordered the recovery of State aid declared to be incompatible with the internal market [State aid case SA.22843 2012/C (ex 2012/NN)].

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

1. First plea in law, alleging errors in law and of fact and manifest errors of assessment on the ground that the Commission incorrectly held that the 'additional' service was not a service of general economic interest. The applicant claims that the Commission thus:
 - erred in law by restricting the wide discretion afforded by the Treaty on the Functioning of the European Union to the States in defining their public services;
 - applied an incorrect test and which is not applicable in the case of a 'genuine need' for a public service;
 - erred in law, committed an error of fact and a manifest error of assessment by analysing separately the 'basic' service and the 'additional' service;
 - committed a manifest error of assessment of the deficiency of the private initiative concerning the 'additional' service.
2. Second plea in law, alleging a manifest error of assessment in that the Commission wrongly held that the allocation of the public service agreement did not meet the fourth criterion set by the judgment of the Court of Justice in Case C-280/00 *Altmark Trans et Regierungspräsidium Magdeburg* [2003] ECR I-7747, even though it was the result of an open and transparent call for tenders.
3. Third plea in law, alleging, in the alternative and on the assumption that the compensation of the 'additional' service constitutes State aid (*quod non*), infringement of Articles 106(2) TFEU and 107 TFEU, the principles of proportionality and the prohibition on unjust enrichment, and a manifest error of assessment in calculating the amount of State aid to be recovered, in so far as the calculation of the State aid to be recovered did not take account of either the genuine additional costs incurred by the SNCM with respect to the 'additional' service, or the under-compensation relating to the 'basic' service, and is based, in any event, on an incorrect assessment of the part of the compensation granted to the 'basic' service and of the part granted to the 'additional' service.
4. Fourth plea in law, alleging infringement of the principle of the protection of legitimate expectations, in so far as the position of the Commission was at odds with its own practice and applied the SIEG communication⁽¹⁾ which had not been adopted at the time the public service agreement was signed. The applicant moreover claims that the length of the procedure was such as to establish a legitimate expectation on its part precluding the Commission from ordering the national authorities to recover the State aid.
5. Fifth plea in law, alleging infringement of the principle of equal treatment by establishing an unjustified difference in treatment between the SNCM and other maritime companies.

⁽¹⁾ Communication from the Commission on the application of the European Union State aid rules to compensation granted for the provision of services of general economic interest (OJ 2012 C 8, p. 4).

Appeal brought on 28 August 2013 by CC against the judgment of the Civil Service Tribunal of 11 July 2013 in Case F-9/12 CC v Parliament

(Case T-457/13 P)

(2013/C 325/70)

Language of the case: French

Parties

Appellant: CC (Bridel, Luxembourg) (represented by: G. Maximini, lawyer)

Other party to the proceedings: European Parliament

Form of order sought by the appellant

The appellant claims that the Court should:

- set aside the judgment of the Civil Service Tribunal of 11 July 2013 in Case F-9/12 CC v *European Parliament*;