

2. Second plea in law, alleging that the second paragraph of Article 2(5) of the Basic Antidumping Regulation, as construed by the Institutions in the present case, may not be applied to imports from a WTO member as it is inconsistent with the WTO Anti-dumping Agreement.
3. Third plea in law, alleging that the injury assessment fails to take into consideration factors that break the causal link between the alleged injury and the allegedly dumped imports in violation of Article 3(7) of the Basic-Anti-dumping Regulation.

⁽¹⁾ Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community (OJ 2009 L 343, p. 51)

Action brought on 21 February 2014 — Daimler v Commission

(Case T-128/14)

(2014/C 151/33)

Language of the case: German

Parties

Applicant: Daimler AG (Stuttgart, Germany) (represented by: C. Arhold, B. Schirmer and N. Wimmer, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul the defendant's decision of 13 December 2013 — SG.B.5/MF/rc — sg.dsg1.b.5(2013) 3963453 — GESTDEM 2013/4643;
- order the defendant to pay the costs of the proceedings.

Pleas in law and main arguments

The applicant contests the Commission's decision on the applicant's confirmatory application for access to documents relating to the procedure under Article 29 of Directive 2007/46/EC ⁽¹⁾ in connection with the refusal of the French Republic to register certain vehicles of the applicant.

The applicant relies on the following in support of its action:

1. Infringement of the right of access to the file

- The applicant submits in this regard that the Commission erroneously denied it a right of access to its file under Article 41(2)(b) of the Charter of Fundamental Rights of the European Union. It submits that it is directly and individually concerned by the procedure under Article 29 of Directive 2007/46. As such, it is entitled to a right of access to the file relating to it as a necessary condition for the effective exercise of its fundamental right to be heard.

2. Infringement of the applicant's rights under the Aarhus Convention ⁽²⁾

- The applicant claims in this regard that there has been an infringement of the Aarhus Convention in conjunction with Regulation (EC) No 1367/2006. ⁽³⁾ The documents the access to which is sought by the applicant concern environmental information. For legal and factual reasons, there cannot be a refusal on grounds of the protection of ongoing investigations. In particular, the requirements of the Aarhus Convention preclude a refusal.

3. Infringement of the right of access to documents under Article 42 of the Charter of Fundamental Rights of the European Union, Article 15(3) TFEU and under Regulation (EC) No 1049/2001 ⁽⁴⁾

— The applicant submits that the contested decision infringes Article 2(1) of Regulation No 1049/2001 and thereby Article 15(3) TFEU and Article 42 of the Charter of Fundamental Rights of the European Union because the applicant has a right of access to the documents sought by it and that there are no exclusion grounds for refusal of access.

— The applicant submits in this regard that, contrary to its duty, the Commission refrained from carrying out an individual and specific assessment of the documents sought and erroneously based its decision on a general exception. Furthermore, there is an overriding public interest in disclosure of the documents. Contrary to its duty, the Commission failed to recognise that fact. The Commission failed to carry out the necessary assessment under Article 4 of Regulation No 1049/2001 and made a blanket reference to protection of the purpose of investigations.

4. Infringement of the second paragraph of Article 296 TFEU and Article 41(2)(c) of the Charter of Fundamental Rights of the European Union

— The applicant submits in this regard that the Commission did not give reasons for its decision in a manner which satisfies the requirements of the second paragraph of Article 296 TFEU and Article 41(2)(c) of the Charter of Fundamental Rights of the European Union.

⁽¹⁾ Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (Framework Directive) (OJ 2007 L 263, p. 1).

⁽²⁾ Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, signed in Aarhus on 25 June 1998.

⁽³⁾ Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters to Community institutions and bodies (OJ 2006 L 264, p. 13).

⁽⁴⁾ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ 2001 L 145, p. 43).

Action brought on 19 February 2014 — PT Wilmar Bioenergi Indonesia and PT Wilmar Nabati Indonesia v Council

(Case T-139/14)

(2014/C 151/34)

Language of the case: English

Parties

Applicants: PT Wilmar Bioenergi Indonesia (Kodya Dumai, Indonesia); and PT Wilmar Nabati Indonesia (Medan, Indonesia) (represented by: P. Vander Schueren, lawyer)

Defendant: Council of the European Union

Form of order sought

The applicants claim that the Court should:

— Annul Council Implementing Regulation (EU) No 1194/2013 of 19 November 2013 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of biodiesel originating in Argentina and Indonesia (OJ 2013 L 315, p. 2), insofar as it imposes an anti-dumping duty on the applicants; and

— Order the defendant to pay the applicants' costs.