

2. Second plea in law, alleging the violation of Regulation No 1 of 15 April 1958
 - In its entire communication with the applicant, the defendant disregarded its obligation to address a person subject to the sovereignty of a Member State in the official language of that state. This breach of law has prevented the applicant from fulfilling the requirements demanded on him with regard to proving its status as a small enterprise.
3. Third plea in law, alleging that the contested decisions are unjustified and the administrative charge levied upon the applicant is disproportionate
 - The contested decisions are wrong on the substance. The applicant was entitled to benefit from a fee reduction according to Regulation (EC) 340/2008. The defendant's invoice regarding the administrative charge is not justified because the administrative charge has been levied upon the applicant on the basis of an erroneous procedure. The administrative charge lacks an appropriate legal basis and is disproportionate.

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- (¹) Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC
- (²) Commission Regulation (EC) No 340/2008 of 16 April 2008 on the fees and charges payable to the European Chemicals Agency pursuant to Regulation (EC) No 1907/2006 of the European Parliament and of the Council on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH)

Action brought on 28 March 2014 — Richard Anton v ECHA

(Case T-208/14)

(2014/C 202/32)

Language of the case: English

Parties

Applicant: Richard Anton KG (Grärfelfing, Germany) (represented by: M. Ahlhaus and J. Schrotz, lawyers)

Defendant: European Chemicals Agency (ECHA)

Form of order sought

The applicant claims that the Court should:

- Declare the decision No SME(2013) 4524 of 21 January 2014 of the European Chemicals Agency as well as invoice No 10046845 of 23 January 2014 to be void; and
- Order the defendant to bear all costs including the applicant's costs.

Pleas in law and main arguments

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

1. First plea in law, alleging the defendant's lack of competence
 - The defendant has not been competent to adopt the contested decision SME(2013) 4524. Neither Regulation (EC) 1907/2006 (¹) nor Regulation (EC) 340/2008 (²) entitles the defendant to issue a separate decision as to whether a registrant complies with the SME criteria.
2. Second plea in law, alleging the violation of Regulation No 1 of 15 April 1958
 - In its entire communication with the applicant, the defendant disregarded its obligation to address a person subject to the sovereignty of a Member State in the official language of that state. This breach of law has prevented the applicant from fulfilling the requirements demanded on him with regard to proving its status as a small enterprise.

3. Third plea in law, alleging that the contested decisions are unjustified and the administrative charge levied upon the applicant is disproportionate

- The contested decisions are wrong on the substance. The applicant was entitled to benefit from a fee reduction according to Regulation (EC) 340/2008. The defendant's invoice regarding the administrative charge is not justified because the administrative charge has been levied upon the applicant on the basis of an erroneous procedure. The administrative charge lacks an appropriate legal basis and is disproportionate.

⁽¹⁾ Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC

⁽²⁾ Commission Regulation (EC) No 340/2008 of 16 April 2008 on the fees and charges payable to the European Chemicals Agency pursuant to Regulation (EC) No 1907/2006 of the European Parliament and of the Council on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH)

Action brought on 9 April 2014 — Gmina Kosakowo v Commission

(Case T-217/14)

(2014/C 202/33)

Language of the case: Polish

Parties

Applicant: Gmina Kosakowo (Municipality of Kosakowo) (Kosakowo, Poland) (represented by: M. Leśny, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- Annul the decision taken by the European Commission on 11 February 2014 in Case SA. 35388 by which Poland was ordered to recover from the Gdynia-Kosakowo airport improperly paid State aid;
- Order the defendant to pay the costs of the proceedings.

Pleas in law and main arguments

In support of its action the applicant puts forward three pleas in law.

1. First plea in law:

- Mistaken determination of the factual situation taken as the basis on which the contested decision was adopted;

2. Second plea in law:

- Breach of Article 107(1) TFEU through the unfounded assumption that the Municipality of Kosakowo had handed over public aid in a manner contrary to that provision in a situation in which the assumption of shares by that entity in the company Port Lotniczy Gdynia-Kosakowo sp. z o.o. constituted the settlement of a transaction relating to a contract for the lease of land; in addition, improper conduct by the European Commission of the private investor test;

3. Third plea in law:

- Breach of the following procedural provisions: of Article 107(1) TFEU, in conjunction with Article 5(1) of Council Regulation (EC) No 659/1999, through the improper conduct of the private investor test; of Article 7(5), in conjunction with Article 13(1), of Council Regulation (EC) No 659/1999 by reason of the mistaken determination of the amount of aid to be reimbursed, to which was also added expenditure for security and infrastructure; and also of the second paragraph of Article 296 TFEU because of the lack of proper reasoning for the contested decision, which lacks elements essential to enable its grounds to be determined.
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