

3. Third plea in law: Misuse of powers

Lastly, the applicant considers that the Commission misused the discretion afforded to it under Articles 107 and 108 TFEU. By initiating the investigation procedure, the Commission is primarily pursuing the objective of fundamentally harmonising the support for renewable electricity. That fundamental objective is also evidenced by the new draft guidelines for environmental and energy aid, in which the Commission for the first time lays down detailed schemes to support renewable energies. In order to work towards a harmonisation, the Commission would, however, have to apply the procedure for approximating laws pursuant to Articles 116 and 117 TFEU, which is laid down for that purpose.

Action brought on 30 April 2014 — Polymer-Chemie v Commission

(Case T-306/14)

(2014/C 223/57)

Language of the case: German

Parties

Applicant: Polymer-Chemie GmbH (Sobernheim, Germany) (represented by: D. Greinacher, J. Martin and B. Scholtka, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul, in accordance with the first paragraph of Article 263 TFEU, the Commission's decision to initiate the formal investigation procedure in relation to the support for the generation of electricity from renewable energy sources and from mine gas in accordance with the Gesetz für den Vorrang erneuerbarer Energien (Law for the priority of renewable energy sources, 'EEG') and the reduced EEG-surcharge for energy-intensive users against the Federal Republic of Germany — State aid SA.33995 (2013/C) (ex 2013/NN) of 18 December 2013, published in the Official Journal of the EU on 7 February 2014 (OJ 2014 C 37, p. 73), in so far as the Commission classifies the special compensation regime pursuant to Paragraphs 40 and 41 of the EEG as State aid within the meaning of Article 107 TFEU;
- order the Commission to pay the costs necessarily incurred pursuant to Article 87(3) of the Rules of Procedure of the General Court.

Pleas in law and main arguments

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

1. First plea in law: Infringement of Article 107 TFEU

The applicant claims that the Commission wrongly classified the support for renewable energies by way of the surcharge system and the special compensation regime to reduce the EEG-surcharge as aid and therefore should not have initiated the formal investigation procedure.

- In this connection, the applicant contends that the Commission made a manifest error of assessment in the preliminary assessment of the issue of whether the special compensation regime constitutes aid, since the special compensation regime, as an exception to the EEG-surcharge, does not grant any advantage which energy-intensive users would not have obtained under normal market conditions.
- The applicant also claims that no State resources are affected. Since the proceeds from the EEG-surcharge already did not constitute State resources, no State resources could be affected even by the exception for energy-intensive users.
- The applicant further claims that the special compensation regime also does not distort competition. At most, it establishes the competitive conditions which exist without the EEG-surcharge.

2. Second plea in law: Infringement of the principle of the protection of legitimate expectations

The applicant claims that, by adopting the decision, the Commission also infringes the principle of the protection of legitimate expectations. The German scheme to support renewable energy has already been subject to a thorough State aid assessment. In that assessment, the Commission in 2002 concluded that a transfer of State resources is not linked to that scheme. Since the 2012 EEG does not, in this respect, contain any substantial amendments to the legal position at the time, the economic operators concerned ought not to have expected a re-examination, but should have been entitled to rely on the continuance of the scheme.

3. Third plea in law: Misuse of powers

Lastly, the applicant considers that the Commission misused the discretion afforded to it under Articles 107 and 108 TFEU. By initiating the investigation procedure, the Commission is primarily pursuing the objective of fundamentally harmonising the support for renewable electricity. That fundamental objective is also evidenced by the new draft guidelines for environmental and energy aid, in which the Commission for the first time lays down detailed schemes to support renewable energies. In order to work towards a harmonisation, the Commission would, however, have to apply the procedure for approximating laws pursuant to Articles 116 and 117 TFEU, which is laid down for that purpose.

Action brought on 30 April 2014 — TechnoCompound v Commission

(Case T-307/14)

(2014/C 223/58)

Language of the case: German

Parties

Applicant: TechnoCompound GmbH (Bad Sobernheim, Germany) (represented by: D. Greinacher, J. Martin and B. Scholtka, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul, in accordance with the first paragraph of Article 263 TFEU, the Commission's decision to initiate the formal investigation procedure in relation to the support for the generation of electricity from renewable energy sources and from mine gas in accordance with the Gesetz für den Vorrang erneuerbarer Energien (Law for the priority of renewable energy sources, 'EEG') and the reduced EEG-surcharge for energy-intensive users against the Federal Republic of Germany — State aid SA.33995 (2013/C) (ex 2013/NN) of 18 December 2013, published in the Official Journal of the EU on 7 February 2014 (OJ 2014 C 37, p. 73), in so far as the Commission classifies the special compensation regime pursuant to Paragraphs 40 and 41 of the EEG as State aid within the meaning of Article 107 TFEU;
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