

GENERAL COURT

Judgment of the General Court of 3 December 2014 — *Castelnou Energía v Commission*

(Case T-57/11) ⁽¹⁾

(State Aid — Electricity — Compensation of additional production costs — Public service obligation to produce certain volumes of electricity from indigenous coal — Preferential dispatch mechanism — Decision not to raise objections — Decision declaring the aid compatible with the internal market — Action for annulment — Individual concern — Significant effect on a competitive position — Admissibility — Failure to initiate the formal review procedure — Serious difficulties — Service of general economic interest — Security of electricity supply — Article 11(4) of Directive 2003/54/EC — Free movement of goods — Protection of the environment — Directive 2003/87/EC)

(2015/C 026/28)

Language of the case: Spanish

Parties

Applicant: Castelnou Energía, SL (Madrid, Spain) (represented initially by: E. Garayar Gutiérrez, subsequently by: C. Fernández Vicién, A. Pereda Miquel and C. del Pozo de la Cuadra, then by: C. Fernández Vicién, L. Pérez de Ayala Becerril and D. Antón Vega, and finally by: C. Fernández Vicién, L. Pérez de Ayala Becerril and C. Vila Gisbert, lawyers)

Defendant: European Commission (represented by: É. Gippini Fournier and C. Urraca Caviedes, acting as Agents)

Intervener in support of the applicant: Greenpeace-España (Madrid, Spain) (represented initially by: N. Ersbøll, S. Rating and A. Criscuolo, and subsequently by: N. Ersbøll and S. Rating, lawyers)

Interveners in support of the defendant: Kingdom of Spain (represented initially by: J. Rodríguez Cárcamo, subsequently by: M. Muñoz Pérez and N. Díaz Abad, then by: N. Díaz Abad and S. Centeno Huerta, and finally by: A. Rubio González and M. Sampol Pucurull, abogados del Estado); Hidroeléctrica del Cantábrico, SA (Oviedo, Spain) (represented by: J. Álvarez de Toledo Saavedra and J. Portomeñe López, lawyers); E.ON Generación, SL (Santander, Spain) (represented initially by: E. Sebastián de Erice Malo de Molina and S. Rodríguez Bajón, and subsequently by: S. Rodríguez Bajón, lawyers); Comunidad Autónoma de Castilla y León (represented initially by: K. Desai, Solicitor, S. Ciscal de Ugarte and M. Peristeraki, lawyers, and subsequently by: S. Ciscal de Ugarte); and Federación Nacional de Empresarios de Minas de Carbón (Carbunión) (Madrid, Spain) (represented initially by: K. Desai, Solicitor, S. Ciscal de Ugarte and M. Peristeraki, lawyers, and subsequently by: S. Ciscal de Ugarte and A. Baumann, lawyers)

Re:

Application for annulment of Commission Decision C(2010) 4499 of 29 September 2010, concerning State aid N178/2010 notified by the Kingdom of Spain in the form of a public service compensation linked to a preferential dispatch mechanism for indigenous coal power plants.

Operative part of the judgment

The Court:

1. Dismisses the application;
2. Orders Castelnou Energía, SL to bear its own costs and to pay the costs incurred by the European Commission;

3. *Orders the Kingdom of Spain, Greenpeace-España, Hidroeléctrica del Cantábrico, SA, E.ON Generación, SL, la Comunidad Autónoma de Castilla y León and la Federación Nacional de Empresarios de Minas de Carbón (Carbunión) to bear their own costs.*

⁽¹⁾ OJ C 80, 12.3.2011.

Judgment of the General Court of 2 December 2014 — Italy v Commission

(Case T-661/11) ⁽¹⁾

(EAGGF — ‘Guarantee’ Section — EAGF and EAFRD — Expenditure excluded from financing — Milk products — Assigned revenue — Key controls — Lateness — Flat-rate financial correction — Legal basis — Article 53 of Regulation (EC) No 1605/2002 — Recurrence)

(2015/C 026/29)

Language of the case: Italian

Parties

Applicant: Italian Republic (represented by: G. Palmieri, acting as Agent, and G. Aiello and P. Grasso, avvocati dello Stato)

Defendant: European Commission (represented by: P. Rossi and D. Nardi, acting as Agents)

Re:

Application for annulment of Commission Implementing Decision 2011/689/EC of 14 October 2011 on excluding from European Union financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF), under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD) (OJ 2011 L 270, p. 33), in so far as it imposes on the Italian Republic a flat-rate financial correction of EUR 70 912 382 in respect of irregularities in controls concerning milk quotas, found in the Italian regions of Abruzzo, Lazio, Marche, Puglia, Sardinia, Calabria, Friuli Venezia Giulia and Valle d’Aosta, in the years 2004/2005, 2005/2006 and 2006/2007.

Operative part of the judgment

The Court:

1. *Dismisses the action;*
2. *Orders the Italian Republic to bear its own costs and to pay those incurred by the European Commission.*

⁽¹⁾ OJ C 49, 18.2.2012.

Judgment of the General Court of 2 December 2014 — Boehringer Ingelheim Pharma v OHIM — Nepentes Pharma (Momarid)

(Case T-75/13) ⁽¹⁾

(Community trade mark — Opposition proceedings — Application for the Community word mark Momarid — Earlier Community word mark LONARID — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009 — Relevant public — Obligation to state reasons — Article 75 of Regulation No 207/2009)

(2015/C 026/30)

Language of the case: English

Parties

Applicant: Boehringer Ingelheim Pharma GmbH & Co. KG (Ingelheim, Germany) (represented initially by: V. von Bomhard and D. Slopek, and subsequently by V. von Bomhard, lawyers)