

**Pleas in law and main arguments**

By its present action, the applicant seeks the annulment of the Commission's decision of 16 October 2014 (AT.39523 — Slovak Telekom) fining the applicant and its parent for abusive conduct in Slovak broadband market pursuant to Article 102 TFEU and Article 54 of the EEA Agreement.

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

1. First plea in law, alleging that the Commission made errors of law and a manifest error of assessment in finding that the applicant committed an abusive refusal to supply.
2. Second plea in law, alleging that the Commission violated the applicant's rights of defence in respect of its margin squeeze assessment. The applicant submits that:
  - the Commission failed to set out its reasoned objections to certain relevant cost principles, methodology and data put forward by the applicant until the contested decision; and
  - the Commission put forward for the first time in the contested decision a new 'multi-period' approach to overturn what was previously a positive margin for 2005 into a negative one.
3. Third plea in law, alleging that the Commission made errors of facts and/or law and/or a manifest error of assessment in finding that the applicant's conduct constituted a margin squeeze. The applicant contends that:
  - the Commission misapplied the long-run average incremental cost ('LRAIC') principles, methodology and data and ignored the applicant's efficient LRAIC costs; and
  - the Commission committed legal errors and/or made manifest errors of assessment under its 'multi-period' approach.
4. Fourth plea in law, alleging that the Commission made errors of law and a manifest error of assessment in that it concluded that the applicant and Deutsche Telekom are part of a single undertaking and that they are both liable for the applicant's alleged infringement.
5. Fifth plea in law, the Commission made errors of law and a manifest error of assessment and breached the principle of equal treatment in the determination of the amount of the fine.

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**Action brought on 2 February 2015 — Germany v Commission**

**(Case T-47/15)**

(2015/C 127/43)

*Language of the case: German*

**Parties**

*Applicant:* Federal Republic of Germany (represented by: T. Henze, K. Petersen and T. Lübbig, lawyer)

*Defendant:* European Commission

**Form of order sought**

The applicant claims that the Court should:

- annul, in accordance with Article 264 TFEU, the Commission Decision of 25 November 2014 in the procedure State aid SA.33995 (2013) (ex 2013/NN) — Germany — Support for renewable electricity and reduced EEG-surcharge for energy-intensive users, C(2014) 8786 final;
- order the defendant to pay the 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: Manifest errors of assessment in the evaluation of the facts

The European Commission misunderstood the underlying facts, namely the functioning of the Law for the priority of renewable energy sources, in particular the financial flows system under that law. In addition, the Commission misunderstood the role 'of the State' as legislator and as body with responsibility for supervisory authorities and incorrectly deduced a situation of control therefrom.

2. Second plea in law: No 'favouring' through the special compensation scheme

The European Commission erred in law in applying Article 107(1) TFEU by accepting, contrary to the case-law of the Court of Justice, that energy-intensive users had been favoured.

3. Third plea in law: No granting of the alleged favouring by the State or through State resources

The European Commission also erred in law in applying Article 107(1) TFEU in this respect when it accepted that public authorities had control over the assets of the various private companies participating in the regime of the Law on the priority of renewable energy sources.

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**Action brought on 16 February 2015 — Mudhook Marketing v OHIM (IPVanish)**

**(Case T-78/15)**

(2015/C 127/44)

*Language of the case: English*

**Parties**

*Applicant:* Mudhook Marketing, Inc. (Winter Park, United States) (represented by: A. Dellmeier and H. Eckermann, lawyers)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)

**Details of the proceedings before OHIM**

*Trade mark at issue:* Community word mark 'IPVanish' — Application for registration No 2 330 271

*Contested decision:* Decision of the Second Board of Appeal of OHIM of 4 December 2014 in Case R 1417/2014-2