

**Action brought on 5 June 2015 — ArcelorMittal Ruhrort v Commission****(Case T-294/15)**

(2015/C 302/74)

*Language of the case: German***Parties**

*Applicant:* ArcelorMittal Ruhrort GmbH (Duisburg, Germany) (represented by: H. Janssen and G. Engel, lawyers)

*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 four pleas in law.

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

The applicant submits that the reduction of the EEG-surcharge is not aid, since State resources were neither granted nor renounced. The reduction of the EEG-surcharge is also not made selectively. In addition, it does not distort competition and also does not affect trade in the internal market.

2. Second plea in law: Infringement of Article 108(3) TFEU

Should — contrary to what the applicant submits — aid exist, the applicant takes the view that the defendant was in any event not entitled to require recovery pursuant to Article 108(3) TFEU. This is because the reduction of the EEG-surcharge does not constitute new aid, since the previous rules in respect of it, which were identical in content in fundamental aspects, had already been approved by the defendant in 2002.

3. Third plea in law: Infringement of Article 107(3) TFEU

The applicant also submits that the decision infringes Article 107(3) TFEU and the principle of the protection of legitimate expectations. In this respect, the defendant should not have assessed the facts examined by it on the basis of its Guidelines on State Aid for Environmental Protection and Energy 2014-2020, which were published only on 28 June 2014. Instead, it should have applied the guidelines published in 2008. Taking the 2008 standard as a basis, the defendant would not have been entitled to reach a conclusion other than that the alleged aid was compatible with the internal market.

4. Fourth plea in law: Infringement of Article 108(1) TFEU and the principle of legal certainty

Lastly, the applicant submits that, by adopting the contested decision in a procedure concerning new aid, the defendant infringed the principle of legal certainty and Article 108(1) TFEU. As the defendant had approved the rules preceding the EEG 2012, it should have taken a decision in a procedure concerning existing aid and not in a procedure concerning new aid.

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**Action brought on 23 June 2015 — Deutsche Edelstahlwerke v Commission**

**(Case T-319/15)**

(2015/C 302/75)

*Language of the case: German*

**Parties**

*Applicant:* Deutsche Edelstahlwerke GmbH (Witten, Germany) (represented by: H. Janssen and S. Altenschmidt, lawyers)

*Defendant:* European Commission

**Form of order sought**

The applicant claims that the Court should:

- annul, pursuant to Article 264 TFEU, Commission Decision C(2014) 8786 final of 25 November 2014 on the State aid scheme SA.33995 (2013) (ex 2013/NN) — Germany, Support for renewable electricity and cap on the EEG-surcharge for energy-intensive users;
- order the defendant to pay the costs.

**Pleas in law and main arguments**

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

1. First plea in law, alleging infringement of Article 107(1) TFEU

The applicant claims that the cap on the EEG-surcharge does not constitute aid, since public funds were neither granted nor waived. The cap on the EEG-surcharge is also not selective. Furthermore, it does not distort competition and does not adversely affect trade within the internal market.

2. Second plea in law, alleging infringement of Article 108(3) TFEU

Even if, contrary to the view of the applicant, the cap does constitute aid, the applicant claims that, in any event, the defendant cannot order restitution pursuant to Article 108(3) TFEU because the cap on the EEG-surcharge is not new aid. It is not new since the defendant had already, in 2002, approved the earlier legislation, the terms of which were identical as far as the main aspects are concerned.