

GENERAL COURT

Judgment of the General Court of 5 April 2017 — CPME and Others v Council

(Case T-422/13) ⁽¹⁾

(Dumping — Imports of certain polyethylene terephthalate (PET) originating in India, Taiwan and Thailand — Expiry review — Commission proposal to renew measures — Council decision to terminate the review without imposing measures — Action for annulment — Article 11(2) of Regulation (EC) No 1225/2009 — Likelihood of recurrence of material injury — Article 21(1) of Regulation No 1225/2009 — Interest of the European Union — Manifest errors of assessment — Obligation to state reasons — Action for damages)

(2017/C 161/26)

Language of the case: English

Parties

Applicants: Committee of Polyethylene Terephthalate (PET) Manufacturers in Europe (CPME) (Brussels, Belgium) and the other applicants whose names are indicated in the annex to the judgment (represented by: L. Ruessmann, lawyer, and J. Beck, Solicitor)

Defendant: Council of the European Union (represented by: S. Boelaert and J.-P. Hix, acting as Agents, assisted by B. O'Connor, Solicitor, and S. Gubel, lawyer)

Interveners in support of the applicants: European Commission (represented by J.-F. Brakeland, A. Demeneix and M. França, acting as Agents)

Interveners in support of the defendant: European Federation of Bottled Waters (EFBW) (Brussels, Belgium), Caiba, SA (Paterna, Spain), Coca-Cola Enterprises Belgium (CCEB) (Anderlecht, Belgium), Danone (Paris, France), Nestlé Waters Management & Technology (Issy-les-Moulineaux, France), Pepsico International Ltd (London, United Kingdom), and Refresco Gerber BV (Rotterdam, Netherlands) (represented by: E. McGovern, Barrister)

Re:

Application (i) under Article 263 TFEU seeking the partial annulment of Council Implementing Decision 2013/226/EU of 21 May 2013 rejecting the proposal for a Council implementing regulation imposing a definitive anti-dumping duty on imports of certain polyethylene terephthalate originating in India, Taiwan and Thailand following an expiry review pursuant to Article 11(2) of Regulation (EC) No 1225/2009 and terminating the expiry review proceeding concerning imports of certain polyethylene terephthalate originating in Indonesia and Malaysia, in so far as the proposal would impose a definitive anti-dumping duty on imports of certain polyethylene terephthalate originating in India, Taiwan and Thailand (OJ 2013 L 136, p. 12), inasmuch as it rejected the proposal to impose a definitive anti-dumping duty on imports originating in India, Taiwan and Thailand and terminated the review proceeding concerning those imports, and, (ii), under Article 268 TFEU for damage allegedly suffered by the applicants.

Operative part of the judgment

The Court:

1. Annuls Council Implementing Decision 2013/226/EU of 21 May 2013 rejecting the proposal for a Council implementing regulation imposing a definitive anti-dumping duty on imports of certain polyethylene terephthalate originating in India, Taiwan and Thailand following an expiry review pursuant to Article 11(2) of Regulation (EC) No 1225/2009 and terminating the expiry review proceeding concerning imports of certain polyethylene terephthalate originating in Indonesia and Malaysia, in so far as the proposal would impose a definitive anti-dumping duty on imports of certain polyethylene terephthalate originating in India, Taiwan and Thailand, inasmuch as it rejected the proposal to impose a definitive anti-dumping duty on imports originating in India, Taiwan and Thailand and terminated the review proceeding concerning imports of polyethylene terephthalate (PET) from those three countries;

2. Dismisses the claims for compensation;
3. Orders the Committee of Polyethylene Terephthalate (PET) Manufacturers in Europe (CPME), Cepsa Química, SA, Equipolymers Srl, Indorama Ventures Poland sp. z o.o., Lotte Chemical UK Ltd, M & G Polimeri Italia SpA, Novapet, SA, Ottana Polimeri Srl, UAB Indorama Polymers Europe, UAB Neo Group and UAB Orion Global pet to bear their own costs, except for those referred to in paragraph (5) below;
4. Orders the Council of the European Union to bear its own costs;
5. Orders the European Federation of Bottled Waters (EFBW), Caiba, SA, Coca-Cola Enterprises Belgium (CCEB), Danone, Nestlé Waters Management & Technology, Pepsico International Ltd and Refresco Gerber BV to bear, in addition to their own costs, those incurred by the applicants by virtue of their intervention;
6. Orders the European Commission to bear its own costs.

⁽¹⁾ OJ C 325, 9.11.2013.

Judgment of the General Court of 6 April 2017 — Regione autonoma della Sardegna v Commission

(Case T-219/14) ⁽¹⁾

(State aid — Maritime transport — Public service compensation — Capital increase — Decision declaring aid incompatible with the internal market and ordering that it be recovered — Liquidation of the recipient undertaking — Continued interest in bringing proceedings — Failure to find that there was no need to adjudicate — Concept of aid — Service of general economic interest — Private investor test — Manifest error of assessment — Error of law — Plea of illegality — Obligation to state reasons — Rights of the defence — Decision 2011/21/EU — Guidelines on State aid for rescuing and restructuring firms in difficulty — Union framework applicable to State aid in the form of public service compensation — Altmark judgment)

(2017/C 161/27)

Language of the case: Italian

Parties

Applicant: Regione autonoma della Sardegna (Italy) (represented by: T. Ledda, S. Sau, G.M. Roberti, G. Bellitti and I. Perego, lawyers)

Defendant: European Commission (represented by: G. Conte, D. Grespan and A. Bouchagiar, acting as Agents)

Intervener in support of the defendant: Compagnia Italiana di Navigazione SpA (Naples, Italy) (represented initially by F. Sciaudone, R. Sciaudone, D. Fioretti and A. Neri, and subsequently by M. Merola, B. Carnevale and M. Toniolo, lawyers)

Re:

Application under Article 263 TFEU for annulment of Commission Decision C(2013) 9101 final of 22 January 2014 concerning aid measures SA.32014 (2011/C), SA.32015 (2011/C), SA.32016 (2011/C) granted by the Autonomous Region of Sardinia (Italy) to the maritime company Saremar in the form of public service compensation and a capital increase, in so far as that decision found those measures to be State aid incompatible with the internal market and ordered that it be recovered.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders the Regione autonoma della Sardegna (Italy) to bear its own costs and to pay those incurred by the European Commission and Compagnia Italiana di Navigazione SpA.

⁽¹⁾ OJ C 175, 10.6.2014.