3. it failed to have regard for the harm actually caused to the European Union in respect of the expenditure connected with voluntary work, and incorrectly took the view that there had been an inadequate verification as to whether the expenditure for the activity connected with immovable property satisfies the requirements, and consequently erred in establishing that there had been a deficiency in a key control, because:

   3.1. it improperly failed to take account of the data supplied by the Lithuanian institutions concerning the examination ordered by the Agency and carried out by independent experts, in the course of which it was established what actual damage may have been caused to the EU funds and what the amount of that damage was, and also what damage was connected with deficiencies in the system of checks of in-kind contributions (voluntary unpaid work), and unjustifiably applied a flat-rate 5 % financial correction;

   3.2. it incorrectly held that Article 24(2)(c) and (d) of Regulation (EU) No 65/2011 had not been complied with during the conducting of the administrative checks on applications for support and the verification of project expenditure — in-kind contributions (immovable property).

([1]) OJ 2017 L 165, p. 37.

([2]) Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 (OJ 2013 L 347, p. 549).

([3]) Commission Regulation (EU) No 65/2011 of 27 January 2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1698/2005, as regards the implementation of control procedures as well as cross-compliance in respect of rural development support measures (OJ 2011 L 25, p. 8).

Action brought on 6 September 2017 — ICL-IP Terneuzen and ICL Europe Coöperatief v Commission

(Case T-610/17)

(2017/C 357/39)

Language of the case: English

Parties

Applicants: ICL-IP Terneuzen, BV (Terneuzen, Netherlands) and ICL Europe Coöperatief UA (Amsterdam, Netherlands) (represented by: R. Cana and E. Mullier, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— declare the application admissible and well-founded;

— annul the Commission Regulation (EU) 2017/999 of 13 June 2017 amending Annex XIV to Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) (OJ 2017, L 150, p. 7) as far as it includes nPB on Annex XIV of the REACH Regulation;

— order the defendant to pay the costs of these proceedings; and

— take such other or further measure as justice may require.

Pleas in law and main arguments

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

1. First plea in law, alleging that the European Commission committed a manifest error of assessment by failing to take into account all relevant facts and breached the principle of sound administration.

   — The applicants submit that the European Commission made a manifest error of assessment by failing to carefully and impartially consider the relevant information submitted to the European Commission by the Applicants which showed that the Substance did not meet the criteria for prioritisation and inclusion on Annex XIV of the REACH Regulation. According to the applicants, if the European Commission had taken the information into account, the scoring received by the substance would have been lower or similar to the scoring of other substances which were not prioritised in the same round of prioritisation, and the substance would not have been included in Annex XIV to the REACH Regulation by the contested Regulation.

2. Second plea in law, alleging that the contested Regulation breaches Article 55 of the REACH Regulation and runs contrary to the REACH Regulation's competitiveness objective, as well as interferes with the right to trade.

— The applicants submit that the contested Regulation runs counter the objectives of competitiveness of the REACH Regulation and in particular of its authorisation Title VII, thereby affecting the applicants' competitive position, as well as impeding the applicants' rights to trade by prioritizing the Substance despite information which showed that the Substance did not meet the criteria for prioritisation and inclusion on Annex XIV.

3. Third plea in law, alleging that the European Commission breached the applicants' rights of defence and breached its obligation to state reasons

— The Applicants submit that the European Commission breached their right of defence and breached its duty to state reasons in not setting out the reasons for 'grouping' the substance with trichioroethylene, despite the European Chemical's Agency express recognition (in the Prioritisation Approach Guidance) that in the case of factors such as 'grouping' are taken into account, which are not part of the formal Article 5 8(3) criteria, reasons for prioritisation must be clearly set out and be in line with the role and purpose of the recommendation step in the authorisation process.

4. Fourth plea in law, alleging that the contested Regulation breaches the applicants' legitimate expectations.

— The applicants submit that the adoption of the contested Regulation breaches their legitimate expectations in so far as it does not comply with the guidance on prioritisation. Specifically, the applicants submit that the prioritisation and inclusion of nPB on Annex XIV breached their legitimate expectations that the volume criterion and the grouping considerations would be applied asthey are set out in the Prioritisation Approach Guidance and the General Approach Guidance.

5. Fifth plea in law, alleging that the contested Regulation breaches the principle of proportionality.

— The Applicants submit that the European Commission should have considered it appropriate to postpone the inclusion of nPB on Annex XIV in the contested Regulation, and that this would have been less onerous since the applicants would not have had to suffer the consequences of inclusion on Annex XIV already now but only when nPB was correctly included on Annex XIV in light of a real high relative priority.

6. Sixth plea in law, alleging that the contested Regulation breaches the principle of equal treatment and non-discrimination

— The applicants submit that the contested Regulation breaches the principle of equal treatment and non-discrimination by treating the substance differently — by including it on Annex XIV of the REACH Regulation — than other substances, including antimony lead yellow. According to the applicants, both substances were in a comparable situation: they were both considered as part of the same prioritisation round, they both received (or should have received) a total prioritisation score of 17, and in both cases their priority assessment involved grouping considerations. However, so the applicants state, they were treated differently by ECHA and the European Commission as the substance was recommended and later included in Annex XIV whereas antimony lead yellow was not recommended for inclusion and thus not included on Annex XIV.

Order of the General Court of 6 September 2017 — Systran v Commission

(Joined Cases T-481/13 and T-421/15) ([1])

(2017/C 357/40)

Language of the case: French

The President of the Sixth Chamber has ordered that the case be removed from the register.

([1]) OJ C 336, 16.11.2013.