

**Judgment of the General Court of 13 September 2013 —  
Fri-El Acerra v Commission**

(Case T-551/10) <sup>(1)</sup>

*(State aid — Subsidy for the takeover of a thermoelectric power plant and conversion thereof into a biofuel power plant — Decision declaring the aid incompatible with the internal market — Application ratione temporis of the guidelines on national regional aid — Legitimate expectations — Incentive effect)*

(2013/C 313/38)

Language of the case: Italian

**Parties**

*Applicant:* Fri-El Acerra Srl (Acerra, Italy) (represented by: M. Todino and P. Fattori, lawyers)

*Defendant:* European Commission (represented by: D. Grespan and P. Manzini, acting as Agents)

**Re:**

Application for annulment of Commission Decision 2011/110/EU of 15 September 2010 on State aid C 8/09 (ex N 357/08) which Italy intends to grant to Fri-El Acerra Srl (OJ 2011 L 46, p. 28).

**Operative part of the judgment**

*The Court:*

1. Dismisses the action;
2. Orders Fri-El Acerra Srl to pay the costs.

---

<sup>(1)</sup> OJ C 30, 29.1.2011.

**Judgment of the General Court of 13 September 2013 —  
ClientEarth v Commission**

(Case T-111/11) <sup>(1)</sup>

*(Access to documents — Regulation (EC) No 1049/2001 — Studies received by the Commission concerning the transposition of directives on the environment — Partial refusal of access — Exception relating to protection of the purpose of inspections, investigations and audits — Specific and individual assessment — Compatibility with the Aarhus Convention — Overriding public interest — Consequences of exceeding the period for the adoption of an express decision — Extent of the obligation actively to disseminate environmental information)*

(2013/C 313/39)

Language of the case: English

**Parties**

*Applicant:* ClientEarth (London, United Kingdom) (represented by: P. Kirch, lawyer)

*Defendant:* European Commission (represented: initially by P. Oliver and C. ten Dam, and subsequently by P. Oliver and C. Zadra, Agents)

**Re:**

Application, initially, for annulment of the Commission's implied decision refusing to grant the applicant access to certain documents on the conformity of the Member States' legislation with European Union environmental law and then for annulment of the Commission's subsequent express decision of 30 May 2011 refusing in part access to some of those documents.

**Operative part of the judgment**

*The Court:*

1. Dismisses the action;
2. Orders ClientEarth and the European Commission each to bear their own costs.

---

<sup>(1)</sup> OJ C 130, 30.4.2011.

**Judgment of the General Court of 13 September 2013 —  
ClientEarth and PAN Europe v EFSA**

(Case T-214/11) <sup>(1)</sup>

*(Access to documents — Regulation (EC) No 1049/2001 — Names of experts who submitted comments on a guidance document relating to the scientific documents to be included in applications for authorisation to place plant protection products and the active substances contained in those products on the market — Refusal of access — Exception concerning protection of privacy and the integrity of the individual — Protection of personal data — Regulation (EC) No 45/2001 — Obligation to state reasons)*

(2013/C 313/40)

Language of the case: English

**Parties**

*Applicants:* ClientEarth (London, United Kingdom) and Pesticide Action Network Europe (PAN Europe) (Brussels, Belgium) (represented by: P. Kirch, lawyer)

*Defendant:* European Food Safety Authority (EFSA) (represented by: D. Detken, Agent)

*Intervener in support of the defendant:* European Commission (represented: initially by P. Oliver, P. Ondrůšek and C. ten Dam, and subsequently by P. Oliver, P. Ondrůšek and B. Martenczuk, Agents)

**Re:**

Application, initially, for annulment of the EFSA decision of 10 February 2011 refusing an application for access, under Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ 2001 L 145, p. 43), to certain working documents relating to a guidance document, prepared by EFSA, for the benefit of applicants for authorisation to place plant protection products on the market and, subsequently, for annulment of EFSA's decision of 12 December 2011 withdrawing the earlier decision and granting the applicants access to all the information requested, except for the names of the external experts who made certain comments on the draft guidance document.

**Operative part of the judgment**

The Court:

- 1) Dismisses the action;
- 2) Orders ClientEarth and Pesticide Action Network Europe (PAN Europe), the European Food Safety Authority (EFSA) and the European Commission each to bear their own costs.

(<sup>1</sup>) OJ C 179, 18.6.2011.

**Judgment of the General Court of 16 September 2013 — De Nicola v EIB**

(Case T-264/11 P) (<sup>1</sup>)

*(Appeal — Civil service — EIB staff — Appraisal — Promotion — 2007 appraisal and promotion period — Decision of the Appeals Committee — Psychological harassment — Reasonable period — Claim for setting aside — Claim for damages)*

(2013/C 313/41)

Language of the case: Italian

**Parties**

*Appellant:* Carlo De Nicola (Strassen, Luxembourg) (represented by: L. Isola, lawyer)

*Other party to the proceedings:* European Investment Bank (EIB) (represented by: initially by T. Gilliams and F. Martin, and subsequently by Gilliams and G. Nuvoli, acting as Agents, and by A. Dal Ferro, lawyer)

**Re:**

Appeal against the judgment of the Civil Service Tribunal of the European Union (First Chamber) in Case F-59/09 *De Nicola v EIB*, not yet published in the ECR, seeking the setting aside of that judgment.

**Operative part of the judgment**

The Court:

1. Sets aside the judgment of the Civil Service Tribunal of the European Union (First Chamber) in Case F-59/09 *De Nicola v EIB*, in so far as it rejects Mr Carlo De Nicola's claims seeking the annulment of the decision of the Appeals Committee of the European Investment Bank (EIB) and compensation for the damage he claims to have suffered as a result of his harassment by the EIB;
2. Dismisses the remainder of the appeal;
3. Refers the case back to the Civil Service Tribunal;
4. Reserves the costs.

(<sup>1</sup>) OJ C 211, 16.7.2011.

**Judgment of the General Court of 12 September 2013 — Besselink v Council**

(Case T-331/11) (<sup>1</sup>)

*(Access to documents — Regulation (EC) No 1049/2001 — Draft Council Decision authorising the Commission to negotiate the Accession Agreement of the European Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms — Exception relating to the protection of the public interest as regards international relations — Partial access — Obligation to state reasons — Application for measures of organisation of procedure or inquiry — Inadmissible)*

(2013/C 313/42)

Language of the case: English

**Parties**

*Applicant:* Leonard Besselink (Utrecht, Netherlands) (represented by: O. Brouwer, J. Blockx and E. Raedts, lawyers)

*Defendant:* Council of the European Union (represented: initially by C. Fekete, P. Plaza García and J. Herrmann, and subsequently by P. Plaza García, J. Herrmann and B. Driessen, acting as Agents)

*Intervener in support of the defendant:* European Commission (represented by: E. Paasivirta and P. Costa de Oliveira, acting as Agents)

**Re:**

Application for annulment of the Council Decision of 1 April 2011 refusing access in full to document 9689/10, containing a draft Council Decision authorising the Commission to negotiate the Accession Agreement of the European Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950

**Operative part of the judgment**

The Court:

1. Annuls the Council Decision of 1 April 2011 refusing full access to document 9689/10 in that it refuses access to Negotiating Directive No 5 and to the undisclosed parts of the requested document, which set out the principles laid down in the EU Treaty that should govern negotiations for the accession of the European Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950, or which only set out the questions to be addressed in the negotiations;
2. Dismisses the action as to the remainder;
3. Orders the parties to bear their own costs.

(<sup>1</sup>) OJ C 238, 13.8.2011.