

worsened the sector, or the fact that the contested decision contains conditions which represent another clear indication that the opening of the formal investigation procedure was necessary.

4. Fourth plea in law, alleging violation of the applicants' rights, as:

— There is no evidence that the applicants' complaint against the State aid measures was the object of any investigation and analysis. Indeed it was not referred to in the contested decision;

— The applicants were not informed in any way of the contested decision.

5. Fifth plea in law, alleging violation of Article 17 of the Charter of Fundamental Rights of the European Union, as:

— The application of State aid rules cannot violate other EU rights, such as the right to property. In the instant case, the Commission could not rely on expropriation of investments without even analysing if that act was being carried out according to the law. Expropriation is per se a violation of the right to property and the Commission could not ignore this circumstance in its assessment;

— The Commission should have verified the conditions and terms of such expropriation, in order to decide if that was an element that it could rely on in assessing the aid measures.

⁽¹⁾ Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty (OJ 1999 L 83, p. 1)

Action brought on 19 July 2013 — CSF v European Commission

(Case T-337/13)

(2013/C 233/22)

Language of the case: Italian

Parties

Applicant: CSF Srl (Grumolo delle Abbadesse, Italy) (represented by: R. Santoro, S. Armellini and R. Bugaro, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul Commission Decision 2013/173/EU published on 10 April 2013 and notified to the applicant on 16 April 2013;

— order the Commission to pay the costs of the present proceedings.

Pleas in law and main arguments

The present action contests Commission Decision 2013/173/EU of 8 April 2013 'on a measure taken by Denmark according to Article 11 of Directive 2006/42/EC of the European Parliament and of the Council prohibiting a type of multi-purpose earth-moving machinery'. That decision found the ban imposed by the Danish authorities to be justified (OJ 2013 L 101, p. 29).

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

1. First plea in law, alleging breach of Articles 5, 6(1), 7 and 11 of Directive 2006/42/EC and points 1.1.2 and 3.4.4 of Annex I thereto.

— It is submitted in that regard that the contested decision is not compatible with the above provisions since it did not take into account the fact that, in reality, the FOPS protective structures for the applicant's Multione S630 machines are mandatory in all cases in which use of the machines exposes the operator to the risk of falling objects or material.

2. Second plea in law, alleging breach of the principle of equal treatment.

— It is submitted in that regard that the Danish measure which the contested decision finds to be justified imposed restrictive measures solely on the movement of multi-purpose Multione S630 machines, even though many other multi-purpose machines similar in type to the Multione S630, and used in the same way, are on the market in Denmark without being obliged to have FOPS.