

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul, in accordance with Article 264 TFEU, the decision of the European Commission of 18 December 2013 in the procedure State aid SA.33995 (2013/C) (ex 2013/NN) — Germany — Support for renewable electricity and reduced EEG-surcharge for energy-intensive users, C(2013) 4424 final;
- order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law: Infringement of Article 4(3) and (4) of Regulation (EC) No 659/1999⁽¹⁾ and of Article 108(2) TFEU

The applicant submits here that the defendant initiated the formal investigation procedure without satisfying its special duty of care to clarify the facts completely. Had the Commission carefully clarified the facts, there would have been no reason to open the formal investigation procedure.

2. Second plea in law: Manifest errors of assessment in the evaluation of the facts

By the second plea, the applicant submits that the Commission misunderstood the underlying facts, namely the functioning of the Law for the priority of renewable energy sources, in particular the financial flows system under that law. In addition, the Commission misunderstood the role 'of the State' as legislator and as body with responsibility for supervisory authorities and incorrectly deduced a situation of control therefrom.

3. Third plea in law: No favouring of energy-intensive users through the special compensation scheme

The applicant submits that the Commission erred in law in applying Article 107(1) TFEU by accepting, contrary to the case-law of the General Court, that energy-intensive users had been favoured.

4. Fourth plea in law: No favouring through State resources

The applicant submits here that the Commission also erred in law in applying Article 107(1) TFEU in this respect when it accepted that public authorities had control over the assets of the various private companies participating in the regime of the Law on the priority of renewable energy sources.

5. Fifth plea in law: Incorrect interpretation and application of Articles 30 and 110 TFEU

By the fifth plea, the applicant submits that the Commission infringed the principle of a proper administrative procedure and the principle of protection of legitimate expectations by reviewing the Law on the priority of renewable energy sources in accordance with Articles 30 and 110 TFEU, although the method by which that law functions has been known to it for over ten years. The Commission also errs in law in applying Articles 30 and 110 TFEU because there is neither any taxation within the meaning of those provisions nor any discriminatory situation.

⁽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 28 February 2014 — SolarWorld and Others v Council

(Case T-141/14)

(2014/C 142/54)

Language of the case: English

Parties

Applicants: SolarWorld AG (Bonn, Germany); Brandoni solare SpA (Castelfidardo, Italy); and Solaria Energia y Medio Ambiente, SA (Madrid, Spain) (represented by: L. Ruessmann, lawyer, and J. Beck, Solicitor)

Defendant: Council of the European Union

Form of order sought

The applicants claim that the Court should:

- Declare the application admissible and well-founded;
- Annul Article 3 of Council Implementing Regulation (EU) No 1238/2013 ⁽¹⁾;
- Join this case with Case T-507/13; and
- Order the defendant to pay the applicants' costs.

Pleas in law and main arguments

In support of the action, the applicants rely on three pleas in law.

1. First plea in law, alleging that Article 3 of the contested regulation reflects a manifest error of assessment, and violates Articles 8 of the Basic Anti-Dumping Regulation ⁽²⁾ to the extent it exempts from the measures Chinese producers from which the Commission accepted a joint undertaking in violation of the applicants' right to a fair legal process and the principle of good administration, the applicants' rights of defense, and Articles 8(4) and 19(2) of the Basic AD Regulation.
2. Second plea in law, alleging that Article 3 of the contested regulation reflects a manifest error of assessment, and violates Articles 8 of the Basic AD Regulation, to the extent it exempts from the measures Chinese producers from which the Commission accepted an unlawful joint undertaking.
3. Third plea in law, alleging that Article 3 of the contested regulation violates Article 101(1) TFEU to the extent it grants certain Chinese producers an exemption from the measures in question on the basis of an undertaking offer, accepted and confirmed by Implementing Decision 2013/707/EU ⁽³⁾ and by Commission Decision 2013/423/EU ⁽⁴⁾, which is a horizontal price fixing arrangement.

⁽¹⁾ Council Implementing Regulation (EU) No 1238/2013 of 2 December 2013 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China (OJ 2013 L 325, p. 1)

⁽²⁾ Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community (OJ 2009 L 343, p. 51)

⁽³⁾ Commission Implementing Decision 2013/707/EU of 4 December 2013 confirming the acceptance of an undertaking offered in connection with the anti-dumping and anti-subsidy proceedings concerning imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China for the period of application of definitive measures (OJ 2013 L 325, p. 214)

⁽⁴⁾ Commission Decision 2013/423/EU of 2 August 2013 accepting an undertaking offered in connection with the anti-dumping proceeding concerning imports of crystalline silicon photovoltaic modules and key components (i.e. cells and wafers) originating in or consigned from the People's Republic of China (OJ 2013 L 209, p. 26)

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(Case T-142/14)

(2014/C 142/55)

Language of the case: English

Parties

Applicants: SolarWorld AG (Bonn, Germany); Brandoni solare SpA (Castelfidardo, Italy); and Solaria Energia y Medio Ambiente, SA (Madrid, Spain) (represented by: L. Ruessmann, lawyer, and J. Beck, Solicitor)

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- Declare the application admissible and well-founded;