

### Form of order sought

The applicant claims that the Court should:

- Annul nine entries (namely the eighth, ninth and tenth entries on p. 51; and the first to sixth entries on p. 52) from the Annex to Commission Implementing Decision of 4 April 2014 on excluding from European Union financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF), under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD) (notified under document C (2014) 2008) (OJ L 104, p. 43);
- Order the Commission to pay the United Kingdom's costs.

### Pleas in law and main arguments

In support of the action, the applicant relies on three pleas in law, all of which relate to the Commission's interpretation of Statutory Management Requirement 8 ('SMR 8') in Council Regulation (EC) No 1782/2003<sup>(1)</sup>, Council Regulation (EC) No 73/2009<sup>(2)</sup> and Council Regulation (EC) No 21/2004<sup>(3)</sup>.

1. First plea in law, alleging that the Commission has committed an error in its interpretation of SMR 8. The three principal arguments in support of that plea are that:
  - the legislative decision to exclude Articles 6, 7 and 8 from SMR 8 must be given effect;
  - the inclusion of Articles 4 and 5 in SMR 8 indicates that Article 3 is insufficient to establish any of its 'elements' as cross-compliance obligations; and
  - there is a purposive logic to the EU legislature's decision to treat Articles 4 and 5 differently from Articles 6, 7 and 8.
2. Second plea in law, alleging that, in its interpretation of SMR 8, the Commission has acted in breach of the principle of legal certainty, which applies with particular force where a measure leads to financial consequences and/or the imposition of a penalty, requires that any uncertainty be resolved in favour of the farmer.
3. Third plea in law, alleging that, in its interpretation of SMR 8, the Commission has acted in breach of the principles of non-discrimination and equal treatment, which require that a farmer who has failed to comply with an article of Regulation 21/2004 which is not listed in SMR 8 should not be treated in the same way as a farmer who has failed to comply with an article of Regulation 21/2004 which is listed in SMR 8.

<sup>(1)</sup> Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulations (EEC) No 2019/93, (EC) No 1452/2001, (EC) No 1453/2001, (EC) No 1454/2001, (EC) 1868/94, (EC) No 1251/1999, (EC) No 1254/1999, (EC) No 1673/2000, (EEC) No 2358/71 and (EC) No 2529/2001 (OJ L 270, p. 1)

<sup>(2)</sup> Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003 (OJ L 30, p. 16)

<sup>(3)</sup> Council Regulation (EC) No 21/2004 of 17 December 2003 establishing a system for the identification and registration of ovine and caprine animals and amending Regulation (EC) No 1782/2003 and Directives 92/102/EEC and 64/432/EEC (OJ L 5, p. 8)

## Action brought on 13 June 2014 — Silec Cable and General Cable v Commission

(Case T-438/14)

(2014/C 282/58)

*Language of the case: English*

### Parties

*Applicants:* Silec Cable (Montereau Fault Yonne, France); and General Cable Corp. (Wilmington, United States) (represented by: I. Sinan, Barrister)

*Defendant:* European Commission

**Form of order sought**

The applicants claim that the Court should:

- Set aside Article 1 of the Commission Decision C (2014) 2139 final of 2 April 2014 relating to a proceeding under Article 101 TFEU and Article 53 of the EEA Agreement, Case COMP/AT.39610 — Power Cables (the 'Decision') as it pertains to Silec Cable and General Cable;
- In the alternative, amend Article 2 of the Decision and reduce the amount of the fine imposed on Silec Cable and General Cable in light of the arguments put forward in support of the application;
- Order the European Commission to pay all of the costs of the proceedings.

**Pleas in law and main arguments**

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

1. First plea in law, alleging that the Commission committed an error of law and did not satisfy its burden of proof under Article 2 of Council Regulation No 1/2003.
2. Second plea in law, alleging that the Commission committed an error of law and infringed the principles of burden of proof and presumption of innocence in asserting that Silec Cable was under a positive obligation to publicly distance itself from the alleged cartel.
3. Third plea in law, alleging that the Commission committed a manifest error of assessment and infringed the principle of equal treatment in concluding that Silec Cable directly participated in the alleged cartel as of 30 November 2005.
4. Fourth plea in law, alleging that the Commission committed a manifest error of assessment and infringed the principle of equal treatment in treating Silec Cable differently and inconsistently with the way it treated other recipients of the Decision.
5. Fifth plea in law, alleging that, at a minimum, the Commission committed a manifest error of assessment and infringed the principle of equal treatment and proportionality in not characterizing Silec Cable as a fringe player.

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**Action brought on 16 June 2014 — LS Cable & System v Commission**

(Case T-439/14)

(2014/C 282/59)

*Language of the case: English*

**Parties**

*Applicant:* LS Cable & System Ltd (Anyang, Republic of Korea) (represented by: S. Kinsella and S. Spinks, Solicitor)

*Defendant:* European Commission

**Form of order sought**

The applicant claims that the Court should:

- Annul Articles 1(11) and 2(t) of the Commission Decision C(2014) 2139 of 2 April 2014 relating to a proceeding under Article 101 TFEU and Article 53 EEA in case AT.39610 — Power Cables (the 'Decision') insofar as it is addressed to the applicant;
- In the alternative, substantially reduce the amount of the fine imposed on the applicant in Article 2(t) of the Decision;
- Order the European Commission to pay the applicant's costs for these proceedings.