

Action brought on 18 December 2015 — British Aggregates e.a. v Commission

(Case T-741/15)

(2016/C 068/48)

*Language of the case: English***Parties**

Applicants: British Aggregates Association (Lanark, United Kingdom), Tinney Quarries Ltd (St. Johnston, Ireland), MBC Quarries Ltd (Ballybofey, Ireland), Mac Sand Ltd (Stranorlar, Ireland) (represented by: L. Van den Hende, lawyer, and A. White, Solicitor)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

- order the annulment of the Commission Decision of 4 August 2014 published in the Official Journal of the European Union on 25 September 2015 on the Aid Scheme SA.18859 (11/C) (ex 65/10 NN) implemented by the United Kingdom — Relief from Aggregates Levy in Northern Ireland (ex N 2/04); and
- order the Commission to pay the applicants' costs in these 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 has made an error of law in determining that the breach of Article 110 TFEU, and thereby of Article 107 TFEU, could be retroactively rectified and thereby render the relief from the Aggregates Levy for Northern Ireland compatible with the internal market.
2. Second plea in law, alleging that, in the alternative to the first plea in law, the Commission has made an error of law and errors of assessment in determining that the retroactive remedy undertaken by the United Kingdom was compatible with the principle of effectiveness and the right to an effective remedy.
3. Third plea in law, alleging that the Commission has made errors of assessment in determining that the relief from the Aggregates Levy for Northern Ireland was compatible with the Community guidelines on State aid for environmental protection⁽¹⁾ (2008 Environmental Aid Guidelines), and thereby with Article 107(3)(c) TFEU. In particular, the Commission has made errors of assessment in finding that the third limb of the necessity criterion under the 2008 Environmental Aid Guidelines had been fulfilled, namely whether or not Northern Irish quarries could not pass on the Aggregates Levy to customers without leading to important sales reductions.
4. Fourth plea in law, alleging that the Commission has failed to make a genuinely diligent and impartial examination as to whether the retroactive remedy undertaken by the United Kingdom was compatible with the principle of effectiveness and the right to an effective remedy, and as to whether the third limb of the necessity test under the 2008 Environmental Aid Guidelines had been fulfilled.
5. Fifth plea in law, alleging that the Commission has failed to state reasons in accordance with Article 296 TFEU on why the retroactive remedy undertaken by the United Kingdom was compatible with the principle of effectiveness and the right to an effective remedy, and on why the third limb of the necessity test under the 2008 Environmental Aid Guidelines had been fulfilled.

⁽¹⁾ Community guidelines on State aid for environmental protection, OJ 2008 C 82, p. 1.