

Appeal brought on 27 July 2018 by Bayer CropScience AG against the judgment of the General Court (First Chamber, Extended Composition) delivered on 17 May 2018 in Case T-429/13: Bayer CropScience AG v European Commission

(Case C-499/18 P)

(2018/C 381/13)

Language of the case: English

Parties

Appellant: Bayer CropScience AG (represented by: K. Nordlander, advokat, C. Zimmermann, avocat, A. Robert, advocate, M. Zdzieborska, Solicitor)

Other parties to the proceedings: European Commission, Association générale des producteurs de maïs et autres céréales cultivées de la sous-famille des panicoidées (AGPM), The National Farmers' Union (NFU), Association européenne pour la protection des cultures (ECPA), Rapool-Ring GmbH Qualitätsraps deutscher Züchter, European Seed Association (ESA), Agricultural Industries Confederation Ltd, Kingdom of Sweden, Union nationale de l'apiculture française (UNAF), Deutscher Berufs- und Erwerbsimkerbund eV, Österreichischer Erwerbsimkerbund, Pesticide Action Network Europe (PAN Europe), Bee Life European Beekeeping Coordination (Bee Life), Buglife — The Invertebrate Conservation Trust, Stichting Greenpeace Council

Form of order sought

The appellant claims that the Court should:

- Quash the judgment of the General Court in case T-429/13.
- Uphold the application at first instance and annul Regulation 485/2013 in so far as it concerns appellant.⁽¹⁾
- Order respondent to pay appellant's costs, and its own costs, both at first instance and on appeal.

Pleas in law and main arguments

The appellant submits that the General Court erred in law as follows:

First ground of appeal: the General Court erred in law in finding that an increase in the degree of certainty of previous scientific knowledge can be considered 'new' scientific knowledge under Article 21 (1) of Regulation 1107/2009.⁽²⁾

Second ground of appeal: the General Court erred in law in its interpretation of Article 21 (3) of Regulation 1107/2009 in holding that EFSA was not required to base its risk assessment on the official guidance applicable at the time of the review.

Third ground of appeal: the General Court erred in law in its application of Article 21(3) of the PPP Regulation.

Fourth ground of appeal: the General Court erred in law in failing to determine an appropriate level of scientific certainty as to the materialization of the alleged risk required for the application of precautionary measures.

Fifth ground of appeal: the General Court erred in law in failing to apply the standards of a thorough and accurate risk assessment which needs to be carried out prior to the adoption of precautionary measures.

Sixth ground of appeal: the General Court erred in law in wrongly defining the scope and ignoring the requirements of the impact assessment which needs to be carried out prior to the adoption of precautionary measures.

⁽¹⁾ Commission Implementing Regulation (EU) No 485/2013 of 24 May 2013 amending Implementing Regulation (EU) No 540/2011, as regards the conditions of approval of the active substances clothianidin, thiamethoxam and imidacloprid, and prohibiting the use and sale of seeds treated with plant protection products containing those active substances (OJ 2013, L 139, p. 12).

⁽²⁾ Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC (OJ 2009, L 309, p. 1).