Reports of Cases

ORDER OF THE GENERAL COURT (First Chamber)

14 February 2019*

(Actions for annulment — Plant-protection products — Substance active 'glyphosate' — Renewal of inclusion in the annex to Implementing Regulation (EU) No 540/2011 — Act not of individual concern — Regulatory act entailing implementing measures — Inadmissibility)

In Case T-125/18,

Associazione Nazionale Granosalus — Liberi Cerealicoltori & Consumatori (Associazione GranoSalus), established in Foggia (Italy), represented by G. Dalfino, lawyer,

applicant,

v

European Commission, represented by F. Castillo de la Torre, D. Bianchi, G. Koleva and I. Naglis, acting as Agents,

defendant,

APPLICATION pursuant to Article 263 TFEU seeking the annulment of Commission Implementing Regulation (EU) 2017/2324 of 12 December 2017 renewing the approval of the active substance glyphosate in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) No 540/2011 (OJ 2017 L 333, p. 10),

THE GENERAL COURT (First Chamber),

composed of I. Pelikánová, President, P. Nihoul (Rapporteur) and J. Svenningsen, Judges,

Registrar: E. Coulon,

makes the following

Order

Background to the dispute

1 Glyphosate is an active substance used, in particular, as a herbicide.

* Language of the case: Italian.

2 Glyphosate was ‘approved’ for the use referred to in paragraph 1 above for the first time in the European Union by its inclusion on the list of active substances in Annex I to Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market (OJ 1991 L 230, p. 1).

3 Glyphosate was added to the end of the table in Annex I to Directive 91/414 by Commission Directive 2001/99/EC of 20 November 2001 amending Annex I to Directive 91/414 to include glyphosate and thifensulfuron-methyl as active substances (OJ 2001 L 304, p. 14).

4 Pursuant to Directive 2001/99, the glyphosate was ‘approved’ as an active substance from 1 July 2002 to 30 June 2012.

5 Article 5(5) of Directive 91/414 provided that the inclusion of an active substance could be renewed, upon request, provided an application was made at the latest two years before the inclusion period was due to lapse.

6 The European Commission received a renewal request for glyphosate within the period prescribed.

7 However, it appeared that the detailed rules concerning the submission and evaluation of further information necessary for the renewal of active substances had yet to be adopted.

8 The inclusion of glyphosate was therefore extended until 31 December 2015 by Commission Directive 2010/77/EU of 10 November 2010 amending Directive 91/414 as regards the expiry dates for inclusion in Annex I of certain active substances (OJ 2010 L 293, p. 48).

9 Subsequently, Directive 91/414 was replaced with effect from 14 June 2011 by 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 (OJ 2009 L 309, p. 1).

10 The active substances deemed to have been approved under Regulation No 1107/2009 are listed in the Annex to Commission Implementing Regulation (EU) No 540/2011 of 25 May 2011 implementing Regulation No 1107/2009 as regards the list of approved active substances (OJ 2011 L 153, p. 1).

11 Glyphosate is on the list in the annex to Implementing Regulation No 540/2011. The expiry date of the approval period for that active substance was fixed at 31 December 2015.

12 On 20 December 2013, the Federal Republic of Germany, as the rapporteur Member State, submitted, in collaboration with the Slovak Republic as the co-rapporteur Member State, the renewal assessment report for the renewal of the approval of glyphosate.

13 The European Food Safety Authority (EFSA) sent the renewal assessment report to the applicant and to the Member States for their comments. It forwarded the comments received to the Commission and made the supplementary summary dossier available to the public.

14 On 20 March 2015, the International Agency for Research on Cancer (IARC) published its findings concerning the carcinogenicity of glyphosate. On the basis of those findings it was classified on the list of substances probably carcinogenic to humans.

15 On 29 April 2015, the Commission mandated the Authority to review the information in the IARC’s findings on glyphosate’s carcinogenic potential and to include those findings in its conclusion by 30 October 2015.

16 In the meantime, the Commission extended the period of the validity of the approval of glyphosate until 30 June 2016 by its Implementing Regulation (EU) 2015/1885 of 20 October 2015 amending Implementing Regulation No 540/2011 as regards the extension of the approval periods of the active substances 2,4-D, acibenzolar-s-methyl, amitrole, bentazone, cyhalofop butyl, diquat, esfenvalerate, famoxadone, flumioxazine, DPX KE 459 (flupyrsulfuron-methyl), glyphosate, iprovalicarb, isoproturon, lambda-cyhalothrin, metalaxyl-M, metsulfuron methyl, picolinafen, prosulfuron, pymetrozine, pyraflufen-ethyl, thiabendazole, thifensulfuron-methyl and triasulfuron (OJ 2015 L 276, p. 48).

17 Implementing Regulation 2015/1885 was based on Article 17, first paragraph, of Regulation No 1107/2009, which provides that the Commission may postpone the expiry of the approval period of an active substance if it appears that the approval is likely to expire before a decision has been taken on renewal, for reasons beyond the control of the applicant.

18 On 30 October 2015, the EFSA sent its conclusion on whether glyphosate could be expected to meet the approval criteria provided for in Article 4 of Regulation No 1107/2009.

19 In its findings, the EFSA stated that 'glyphosate is unlikely to pose a carcinogenic hazard to humans and the evidence [did] not support classification [of that active substance] with regard to its carcinogenic potential according to Regulation (EC) No 1272/2008 [of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC and amending Regulation (EC) No 1907/2006 (OJ 2008 L 353, p. 1)]'.

20 The Commission presented the draft review report to the Standing Committee on Plants, Animals, Food and Feed on 28 May 2016. The applicant was given an opportunity to comment.

21 At the Standing Committee on Plants, Animals, Food and Feed several Member States deemed it appropriate to seek the opinion of another body, namely the Committee for Risk Assessment of the European Chemicals Agency (ECHA) on the harmonised classification of glyphosate with regard to its carcenogenic potential, before taking a decision on the new approval.

22 Taking account of the time necessary for the Committee for Risk Assessment of the ECHA to adopt an opinion, the approval period for glyphosate was extended a third time, this time until 15 December 2017, by Commission Implementing Regulation (EU) 2016/1056 of 29 June 2016 amending Implementing Regulation No 540/2011 as regards the extension of the approval period of the active substance glyphosate (OJ 2016 L 173, p. 52).

23 The Committee for Risk Assessment of the ECHA forwarded its opinion to the Commission on 15 June 2017. In its opinion, it concluded by consensus that, on the basis of the information currently available, no hazard classification for carcinogenicity was justified for glyphosate.

24 On 6 October 2017 the Commission officially received a successful European Citizens' Initiative referring specifically to glyphosate in one of its three aims, with validated signatures from at least one million European citizens in at least seven Member States.

25 On 23 October 2017, the Commission responded to the European Citizens' Initiative stating that 'as regards the first aim seeking to ban glyphosate-based herbicides it [took] the view that there [was] no scientific or legal grounds for a ban on glyphosate and [did] not intend to introduce legislative proposals to that effect'. It added that 'in particular, the scientific evidence [did] not support the conclusion that glyphosate could cause cancer' and that 'therefore, the decision adopted … to renew the approval of glyphosate (for a period of five years) [was] completely justified'.

26 The Standing Committee on Plants, Animals, Food and Feed has not delivered an opinion within the time limit laid down by its chairman. The matter was referred to the appeal committee for further deliberation and issued an opinion.

27 On 12 December 2017, the Commission adopted Implementing Regulation (EU) 2017/2324 renewing the approval of the active substance glyphosate in accordance with Regulation No 1107/2009 and amending the Annex to Commission Implementing Regulation No 540/2011 (OJ 2017 L 333, p. 10, 'the contested act').

28 By the contested act, the approval of glyphosate was renewed, under certain conditions, until 15 December 2022.

29 Recital 25 of the contested act states that the provisions for which it provides are in accordance with the opinion of the appeal committee referred to in paragraph 26 above.

Procedure and forms of order sought

30 By application lodged at the General Court Registry on 28 February 2018, the applicant, Associazione Nazionale GranoSalus — Liberi Cerealicoltori & Consumatori, an Italian association of wheat producers and consumers, together with their protection associations, brought the present action.

31 By document lodged on 30 May 2018, the Council raised an objection of inadmissibility pursuant to Article 130 of the Rules of Procedure of the General Court.

32 The applicants lodged their observations on the objections of inadmissibility on 9 July 2018.

33 By documents dated, respectively, 8, 11 and 12 June 2018, Helm AG, Monsanto Europe NV/SA and Monsanto Company, Nufarm GmbH & Co., Nufarm, Albaugh Europe Sàrl, Albaugh UK Ltd, Albaugh TKI d.o.o. and Barclay Chemicals Manfuacturing Ltd sought leave to intervene in support of the Commission's forms of order.

34 In the application, the applicant claims that the Court should annul the contested act.

35 The Commission contends that the Court should:

– dismiss the action as manifestly inadmissible;

– order the applicant to pay the costs;

– in the alternative, prescribe new time limits for further steps in the proceedings.

36 In its observations on the objection of inadmissibility, the applicant claims that the Court should declare the action admissible.

37 Furthermore, the applicant asks the General Court to issue a measure of inquiry seeking the production of the passages of the EFSA report in which the studies on the potential effects of glyphosate on human health are re-examined in order to compare them with the file called the 'Monsanto papers' containing internal documents of the Monsanto group made public by the United States' courts in 2017.

Law

38 Under Article 130(1) and (7) of the Rules of Procedure, the General Court may rule on inadmissibility or lack of competence, if the defendant so requests, without making a decision on the substance of the case.

39 In the present case, the Court considers that it has sufficient information from the material in the file and has decided to give a decision without taking further steps in the proceedings.

The plea of inadmissibility

40 In support of the pleas of inadmissibility, the Commission submits that the applicant does not have standing to bring proceedings. First, the contested act does not concern the applicant directly and individually. Second, the contested act is a regulatory act which entails implementing measures.

41 The applicant challenges the Commission's arguments and submits, inter alia, that the contested act directly concerns it and that it does not entail implementing measures.

42 As a preliminary point, it must be observed that the applicant is an association created with the purpose of preserving and promoting quality cereal crops in order to protect consumers. In that context, the aim of that association is, inter alia, the protection and defence of its members, who are wheat producers and consumers residing in the south of Italy, as well as EU citizens.

43 According to the Court, an association is, as a general rule entitled to bring an action for annulment only if it or its members or some of them have locus standi (see, to that effect, judgment of 13 March 2018, *European Union Copper Task Force* v *Commission*, C-384/16 P, EU:C:2018:176, paragraph 87 and the case-law cited). Therefore, it is appropriate to identify whether, in the present case, the applicant relies on one of those arguments.

The applicant's standing to bring proceedings

44 As regards the question whether the applicant can prove an interest of its own, it should be noted, first, that it is settled case-law, that the role played by an association in a procedure which led to the adoption of an act within the meaning of Article 263 TFEU may justify the admissibility of the action brought by the association, in particular where its position as negotiator has been affected by the latter or where the regulation at issue grants it a right of a procedural nature (see judgment of 13 March 2018, *European Copper Task Force* v *Commission*, C-384/16 P, EU:C:2018:176, paragraph 88 and the case-law cited).

45 In the present case, the applicant submits that the contested act affects the interests defended by it, in particular, combatting all forms of speculation or abuse on the market to the detriment of farmers. However, in the observations it submitted, it did not mention playing a role in the elaboration of the contested act or having specific rights in the procedure which led to the adoption of that act.

46 It follows that, having regard to the case-law developed by the Court, the applicant does not have an interest of its own which would have entitled it to bring an action for annulment in its name before the General Court and that, accordingly, the present action may in principle be declared admissible only if it is shown that the applicant's members or some of them themselves have locus standi.

Locus standi of the applicant's individual members

47 Under the fourth paragraph of Article 263 TFEU, any natural or legal person may institute proceedings against an act addressed to that person or which is of direct and individual concern to them, and against a regulatory act which is of direct concern to them and which does not entail implementing measures.

48 The fourth paragraph of Article 263 TFEU thus distinguishes three cases in which an action for annulment brought by a natural or legal person may be declared admissible.

– *Addressee of the act*

49 In the first case, which concerns the addressees of the act, it should be noted that the notion of an addressee of an act must be understood in a formal sense, as referring to the person designated by that act as being its addressee (judgment of 21 January 2016, *SACBO* v *Commission and INEA*, C-281/14 P, not published, EU:C:2016:46, paragraph 34).

50 In the present case, the applicant's members cannot be regarded as addressees of the contested act because they are not mentioned in that act as its addressees.

– *Direct and individual concern*

51 In the second case, it must be determined whether the applicant's members or some of them are individually concerned by the contested act.

52 The Court has consistently held that persons other than those to whom a decision is addressed may claim to be individually concerned by that act, within the meaning of Article 263, fourth paragraph, TFEU only if that decision affects them by virtue of certain attributes which are peculiar to them or by reason of circumstances in which they are differentiated from all other persons and thus distinguishes them individually, just as in the case of the person to whom the decision is addressed (judgment of 15 July 1963, *Plaumann* v *Commission*, 25/62, EU:C:1963:17, p. 107);

53 However, where an act affects persons as part of an abstract category or a group without distinguishing characteristics, the conditions required by the case-law cited in paragraph 52 above have not been met.

54 In the present case, it must be held that, according to Article 1 of the contested act, the measure consisting in renewing the approval of glyphosate subject to the conditions laid down in Annex I to the act concerns, in an abstract and general manner, any person intending to produce, market or use that substance or phytopharmaceutical products containing that substance and anyone holding marketing authorisations for those phytopharmaceutical products.

55 Therefore, the contested act applies to objectively determined situations and has legal effects with respect to categories of persons viewed generally and in the abstract. It follows that that measure has general scope.

56 The applicant argues that the contested act affects some of its members, because the continued use of glyphosate is harmful to their health, as citizens of the EU and as consumers.

57 In that connection, it must be held that some of the applicant's members are allegedly affected by the contested act in their general capacity as consumers and citizens of the EU.

58 As the applicant itself acknowledges, the renewal of the approval for glyphosate is detrimental to the health of some of its members because of the danger it poses and its presence in basic products and consumer goods, mainly in the water, those members being affected as consumers and citizens of the EU.

59 The applicant also submits that the continued use of glyphosate gives rise to material damage for some of its members who are wheat producers, since, as a result of their ethical or scientific convictions, which are set out in the applicant's articles of association, they do not use that active substance, so that they are economically disadvantaged as compared with producers who do use it as a result of increased costs, lower volume of production and higher sales prices.

60 In that connection, it must be observed that the harm relied on by the applicant concerning its members who are wheat producers is no different from that which could be relied on by any farmer who, for his own reasons, abstains from using glyphosate in favour of other solutions which give rise to certain costs for him.

61 It follows that the contested act affects the applicant's members by reason as their objective status as consumers, citizens of the EU or wheat producers in the same way as any other consumer, citizen of the EU or wheat producer who is actually or potentially in the same situation.

62 Therefore, the applicant has not shown that its members, or some of them, were individually concerned by the contested act.

63 As the conditions requiring a person to be directly and individually concerned by the measure for which annulment is sought are cumulative, it is not necessary to determine whether the applicant's members or some of them are also directly concerned by the contested act.

64 It follows that the locus standi of the applicant's members themselves, or some of them, cannot be based on the second situation contemplated in the fourth paragraph of Article 263 TFEU.

– The characterisation of the contested act as a regulatory act which does not entail implementing measures

65 The third situation in which an action for annulment brought by a natural or legal person is admissible is that in which that act is a regulatory act directly concerning that person and not entailing implementing measures.

66 In that connection, it must be observed that the concept of regulatory act, within the meaning of the fourth paragraph of Article 263 TFEU includes acts of general application, except legislative acts (judgment of 3 October 2013, *Inuit Tapiriit Kanatami and Others* v *Parliament and Council*, C-583/11 P, EU:C:2013:625, paragraph 60).

67 In the present case, the contested act is such a regulatory act since, first, it is an act of general application, as stated in paragraph 55 above, and, second, it was not adopted in accordance with the ordinary legislative procedure set out in Article 294 TFEU or according to a special legislative procedure, as defined in Article 289(2) TFEU, by which the European Parliament adopts an act with the participation of the Council of the European Union or vice versa. The parties do not, moreover, dispute that point.

68 Furthermore, the notion of 'regulatory act which … does not entail implementing measures' within the meaning of the fourth paragraph of Article 263 TFEU is to be interpreted in the light of that provision's objective, which, as is clear from its origin, consists in preventing an individual from being obliged to infringe the law in order to have access to a court (judgment of 19 December 2013, *Telefonica* v *Commission*, C-274/12 P, EU:C:2013:852, paragraph 27).

69 Where a regulatory act directly affects the legal situation of a natural or legal person without requiring implementing measures, that person could be denied effective judicial protection if he did not have a direct legal remedy before the European Union judicature for the purpose of challenging the legality of the regulatory act (judgment of 19 December 2013, *Telefonica* v *Commission*, C-274/12 P, EU:C:2013:852, paragraph 27).

70 However, if a regulatory act entails implementing measures, judicial review of compliance with the European Union legal order is ensured as is clear from Article 19(1) TEU, not only by the Court of Justice, but also by the courts of the Member States.

71 First, where the EU institutions, bodies, offices or agencies are responsible for the implementation of a regulatory act, natural or legal persons may bring a direct action before the Courts of the EU against implementing measures under the conditions set out in the fourth paragraph of Article 263 TFEU and, in accordance with Article 277 TFEU, in support of such an action, plead the illegality of the general measure on which they are based (judgment of 23 April 1986, *Les Verts* v *Parliament*, 294/83, EU:C:1986:166, paragraph 23).

72 Second, where implementation is a matter for the Member States, natural or legal persons may challenge the validity of the national implementing measure before the national courts and, in those proceedings, may plead the invalidity of the basic act, causing the latter to request, where appropriate, the Court of Justice for a preliminary ruling on the basis of Article 267 TFEU (judgment of 23 April 1986, *Les Verts* v *Parliament*, 294/83, EU:C:1986:166, paragraph 23).

73 In order to determine whether a regulatory act entails implementing measures, it should be assessed by reference to the position of the person pleading the right to bring proceedings and it is irrelevant whether the act in question entails implementing measures with regard to other persons (judgments of 19 December 2013, *Telefónica* v *Commission*, C-274/12 P, EU:C:2013:852, paragraph 30, and of 28 April 2015, *T & L Sugars and Sidul Açúcares* v *Commission*, C-456/13 P, EU:C:2015:284, paragraph 32).

74 In the present case, it must therefore be determined whether the contested act, renewing the approval of glyphosate for a period of five years, entails implementing measures with regard to the applicant's members.

75 For that, regard must be had to the mechanism established by the regulatory framework applicable in the present case.

76 In accordance with Regulation No 1107/2009, like any active substance, glyphosate is subject to a two stage assessment.

77 In the first stage, the active substance is assessed, as such, at EU level and approved by the Commission in accordance with the procedure organised by Articles 7 to 13 of Regulation No 1107/2009, if it is established that it complies with the criteria for approval laid down by Article 4 thereof.

78 In the second stage, the phytopharmaceutical product containing the active substance approved by the EU is evaluated by the Member States, which, if appropriate, issue a marketing authorisation for that product, in accordance with the procedure and the conditions for authorisation laid down in Articles 28 to 39 of Regulation No 1107/2009.

79 Therefore by the application of the legislation, a pharmaceutical product containing the active substance 'glyphosate', approved by the Commission cannot be placed on the market or even used without authorisation given, in the Member State concerned, by the authorities of that Member State.

80 It is true that Articles 14 to 20 of Regulation No 1107/2009 provide that the renewal of the approval of an active substance is granted by the Commission, on the application of the producer of that active substance, if the criteria for approval of Article 4 of that regulation are satisfied.

81 However, the renewal of the approval of an active substance is not, in itself, the confirmation, extension or renewal of the marketing authorisation granted by the Member States for a phytopharmaceutical product containing that active substance.

82 In accordance with Article 32(1), first paragraph, of Regulation No 1107/2009, marketing authorisations may be granted for a limited period. According to the second subparagraph of Article 32(1), that period cannot exceed 1 year from the date of expiry of the approval of the active substance contained in the phytopharmaceutical product. Thereafter, it is set so as to correspond to the approval period of that active substance.

83 Furthermore, Article 43(1) and (2) of Regulation No 1107/2009, provides, first, that an authorisation is to be renewed upon application by the authorisation holder and, second, that such an application must be submitted within 3 months from the renewal of the approval of the active substance contained in the phytopharmaceutical product.

84 It follows that the effects of the contested act are felt, with regard to the applicant's members, that is consumers, citizens of the EU and wheat producers whose interests it represents, by the renewal of marketing authorisations of phytopharmaceutical products containing the active substance 'glyphosate'.

85 According to paragraphs 68 to 73 above, such renewals of marketing authorisations constitute implementing measures of the contested act, within the meaning of the fourth paragraph, last sentence, of Article 263 TFEU.

86 That conclusion is not affected by the other arguments put forward by the applicants.

87 In the first place, the applicant states that the contested act itself contains the maintenance of the marketing authorisations for the phytopharmaceutical products containing the active substance 'glyphosate' which had been issued, in accordance with Articles 29 and 32 of Regulation No 1107/2009, by the Italian authorities and which were in force on the date on which that act was adopted.

88 In that connection, it must be observed that that argument is based on the premiss that the renewal of the approval of the active substance 'glyphosate' by the Commission automatically entails the confirmation, extension and renewal of the marketing authorisations granted by the Member States for the phytopharmaceutical products containing that active substance.

89 As is clear from paragraphs 81 to 83 above, that premiss is incorrect.

90 Furthermore, it is true that, under Article 43(5) and (6) of Regulation No 1107/2009, the Member States are to decide on the renewal of the authorisation of a plant protection product at the latest 12 months after the renewal of the approval of the active substance contained in the phytopharmaceutical product and may extend the authorisation for the period necessary to complete the examination and adopt a decision on its renewal where, for reasons beyond the control of the holder of the authorisation, no decision is taken on the renewal of the authorisation before its expiry.

91 Therefore, according to the applicant, the Italian authorities decided to provisionally extend all the marketing authorisations for phytopharmaceutical products containing the active substance 'glyphosate'.

92 However, it must be observed that such an extension does not follow automatically from the renewal by the Commission of the approval of the active substance 'glyphosate', but rather from an intervention attributable to the Member State concerned, it being understood that such an intervention must provide for the possibility to bring proceedings before the national courts (see, to that effect, order of 12 January 2017, *ACDA and Others* v *Commission*, T-242/15, EU:T:2017:6, paragraphs 45 to 47 and the case-law cited).

93 Second, the applicant claims that the measures taken by the Member States with regard to the marketing authorisations for phytopharmaceutical products containing the active substance 'glyphosate' may be regarded as implementing measures, since the contested act only provides for general precautionary measures for its application, leaving the adoption of implementing measures entirely to the discretion of the Member States and, most importantly, did not provide any guidelines for its actual implementation.

94 Even assuming that that argument were to be understood as meaning that a regulatory act may be regarded as entailing implementing measures only if it contains detailed and specific provisions for its implementation, it must be observed that the renewal of the approval of the active substance 'glyphosate' is subject to several conditions which must be taken into consideration by the Member States when they consider renewing the marketing authorisations for phytopharmaceutical products containing that active substance.

95 Furthermore, as regards the Member States' discretion with regard to the implementation of the contested act, it must be recalled that the question whether or not the measures adopted at national level are mechanical in nature is irrelevant for ascertaining whether a regulatory act entails implementing measures within the meaning of the fourth paragraph, last sentence. of Article 263 TFEU (see, to that effect, judgment of 28 April 2015, *T & L Sugars and Sidul Açúcares* v *Commission*, C-456/13 P, EU:C:2015:284, paragraphs 41 and 42).

96 In light of the foregoing elements, it must be held that the contested act does not constitute a regulatory act which entails implementing measures within the meaning of the fourth paragraph, last sentence, of Article 263 TFEU.

97 In a such a situation, the remedy laid down in the Treaty, and in the case-law developed by the Court to interpret the latter, consists, where a natural or legal person wishes a judicial review of an EU measure of general scope, of bringing an action before the national courts challenging a national implementing measure and asking that court to make a reference for a preliminary ruling to the Court of Justice on the validity of the basic measure adopted at EU level (see paragraph 72 above and the case-law cited).

98 From those considerations, it is clear that the present action must be dismissed as inadmissible as it is presented before the General Court.

Application for measure of inquiry

99 The applicant asks the General Court to order, as a measure of inquiry, the production of passages in the EFSA report in which the studies on the potential effects of glyphosate on human health are re-examined, in order to compare them with the file called 'the Monsanto papers'.

100 In that connection, it must be observed that that request concerns the substance of the present action and, therefore, it cannot be dealt with because that action is inadmissible.

The applications to intervene

101 In accordance with Article 142(2) of the Rules of Procedure, an intervention is ancillary to the main proceedings and becomes devoid of purpose, inter alia, when the application is declared inadmissible.

102 Therefore, there is no need to rule on the requests for leave to intervene by Helm, Monsanto Europe, Monsanto, Nufarm GmbH & Co. KG, Nufarm, Albaugh Europe, Albaugh UK, Albaugh TKI and Barclay Chemicals Manufacturing.

Costs

103 Under Article 134(1) of the Rules of Procedure, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings.

104 Since the applicant has been unsuccessful, it must be ordered to bear its own costs and to pay those of the Commission in accordance with the latter's pleadings.

105 In accordance with Article 144(10) of the Rules of Procedure, Helm, Monsanto Europe, Monsanto, Nufarm GmbH & Co. KG, Nufarm, Albaugh Europe, Albaugh UK, Albaugh TKI and Barclay Chemicals Manufacturing are each to bear their own costs relating to the applications for leave to intervene.

On those grounds,

THE GENERAL COURT (First Chamber)

hereby orders:

1. **The action is to be dismissed as inadmissible.**

2. **There is no longer any need to give a ruling on the applications for leave to intervene by Helm AG, Monsanto Europe NV/SA, Monsanto Company, Nufarm GmbH & Co., Nufarm, Albaugh Europe Sàrl, Albaugh UK Ltd, Albaugh TKI d.o.o. and Barclay Chemicals Manfuacturing Ltd.**

3. **Associazione Nazionale GranoSalus — Liberi Cerealicoltori & Consumatori (Associazione GranoSalus) is to bear its own costs and to pay those incurred by the European Commission.**

4. **Helm, Monsanto Europe, Monsanto, Nufarm GmbH & Co. KG, Nufarm, Albaugh Europe, Albaugh UK, Albaugh TKI and Barclay Chemicals Manufacturing are each to bear their own costs relating to the applications for leave to intervene.**

Luxembourg, 14 February 2019.

E. Coulon
Registrar

I. Pelikánová
President